Western Australia

Road Traffic Act 1974

Compare between:

[10 Jan 2025, 14-t0-00] and [28 Oct 2026, 14-u0-00]

Western Australia

Road Traffic Act 1974

An Act to make provision in relation to the driving and use of vehicles, the regulation of traffic and for incidental and other purposes.

[Long title amended: No. 8 of 2012 s. 5.]

Part I — Preliminary

1. Short title

This Act may be cited as the *Road Traffic Act 1974*.

2. Commencement

(1) Subject to subsection (2) the provisions of this Act shall come into operation on such date or such dates as is or are, respectively, fixed by proclamation.

(2) Section 4 shall come into operation on the day on which this Act receives the Royal Assent.

*[**3.** Deleted: No. 82 of 1982 s. 4.]*

4. Repeal

The provisions of the *Traffic Act 1919* shall be repealed on such date or such dates as is or are, respectively, fixed by proclamation.

5. Terms used

The *Road Traffic (Administration) Act 2008* Part 1 Division 2 provides for the meanings of some terms and abbreviations in this Act.

[Section 5 inserted: No. 8 of 2012 s. 6.]

*[**5A.** Deleted: No. 8 of 2012 s. 7.]*

[Part II (s. 6-15A) deleted: No. 8 of 2012 s. 8.]

[Part IIA deleted: No. 5 of 2002 s. 15.]

*[Part III: s. 15, 17-20, 22, 23A-29 deleted: No. 8 of 2012 s. 8;
s. 16 deleted: No. 28 of 2001 s. 7;*

s. 21 deleted: No. 21 of 1995 s. 7;
s. 23 deleted: No. 39 of 2000 s. 11.]

[Part IV: s. 30-37 and 39-41 deleted: No. 8 of 2012 s. 8;
s. 38 deleted: No. 39 of 2009 s. 6.]

[Part IVA: s. 41A-44D, 47, 48 and 48A deleted: No. 8 of 2012 s. 8;
s. 45, 46 deleted: No. 18 of 2011 s. 11;
s. 48B-48F deleted: No. 54 of 2006 s. 6.]

Part V — Regulation of traffic

[Heading inserted: No. 76 of 1996 s. 11.]

Division 1AA — Terms used in this Part

[Heading inserted: No. 25 of 2016 s. 42.]

49AAA. Terms used

In this Part —

above the speed limit, in relation to the driving of a vehicle, means driving the vehicle at a speed that exceeds the speed limit applicable to the driver, the vehicle or the length of road where it is being driven;

confiscation zone means —

(a) in relation to a vehicle, a length of road where the speed limit applicable to the vehicle, or the length of road, is 50 km/h or less; or

(b) a school zone;

grievous bodily harm has the meaning given in *The Criminal Code* section 1(1);

instructor means a person who may give driving instruction under the *Road Traffic (Authorisation to Drive) Act 2008* section 10(2);

learner driver means —

(a) the holder of a learner's permit; or

(b) a person authorised to drive under the *Road Traffic (Authorisation to Drive) Act 2008* section 6;

motor cycle means a motor vehicle that has 2 wheels and includes —

(a) a 2-wheeled motor vehicle with a sidecar attached to it that is supported by a third wheel; and

(b) a motor vehicle with 3 wheels that is ridden in the same way as a motor vehicle with 2 wheels;

provide driving instruction means to provide or attempt to provide driving instruction to a learner driver who is driving a motor vehicle;

school zone means a length of road designated as a school zone under a road law;

speed limit means a speed limit set under a road law.

[Section 49AAA inserted: No. 25 of 2016 s. 42; amended: No. 51 of 2016 s. 4.]

Division 1A — When person taken to be instructor or in charge of vehicle

[Heading inserted: No. 25 of 2016 s. 42.]

49AA. Circumstances in which person taken to be instructor or in charge of motor vehicle

(1) For the purposes of this Part, unless the contrary is shown, a person is to be taken to be an instructor providing driving instruction to a learner driver if the person is —

(a) seated beside the learner driver in a motor vehicle driven by the learner driver; or

(b) if there is no seat directly beside the learner driver —

(i) seated in the seat nearest the learner driver that faces forward in a motor vehicle driven by the learner driver; or

(ii) standing near the learner driver in a motor vehicle driven by the learner driver;

or

(c) riding in a side car attached, or on a pillion seat fitted, to a motor cycle driven by the learner driver.

(2) Without limiting the circumstances in which a person is in charge of a motor vehicle, an instructor providing driving instruction to a learner driver is, for the purposes of this Part (other than sections 49AB and 66A), to be taken to be in charge of the motor vehicle driven by the learner driver.

(3) Subsection (2) does not affect any liability of a learner driver for any offence committed by that person while driving or being in charge of a vehicle.

[Section 49AA inserted: No. 25 of 2016 s. 42.]

Division 1 — Driving of vehicles: general offences

[Heading inserted: No. 10 of 2004 s. 6.]

49AB. Term used: circumstances of aggravation

(1AA) In this section —

***prescribed authorisation* —**

(a) means —

(i) a learner's permit; or

(ii) an Australian driver licence; or

(iii) a licence or authorisation granted under the law of an external licensing authority as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

and

(b) includes an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1).

(1A) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.

(1) For the purposes of this Division, a person commits an offence in ***circumstances of aggravation*** if at the time of the alleged offence —

(a) the person was unlawfully driving the vehicle concerned without the consent of the owner or person in charge of the vehicle; or

(aa) the person has never held a prescribed authorisation; or

(ab) the person has held a prescribed authorisation but is a person described in section 49(3)(a), (b), (ca), (c) or (da); or

(ac) the person holds a prescribed authorisation but the prescribed authorisation does not authorise the person to drive a vehicle of the kind concerned; or

(ad) the person commits an offence under the *Road Traffic (Authorisation to Drive) Act 2008* section 38(1); or

(b) the person was driving the vehicle concerned on a road at 30 km/h or more above the speed limit; or

(c) the person was driving the vehicle concerned to escape pursuit by a police officer.

(2A) Subsection (1)(ac) does not apply to a person who is a member of a class of persons prescribed for the purposes of the subsection by regulations made under the *Road Traffic (Authorisation to Drive) Act 2008* section 4(7).

(2) For the purposes of subsection (1)(c) it does not matter whether the pursuit was proceeding, or had been suspended or terminated, at the time of the alleged offence.

[Section 49AB inserted: No. 59 of 2012 s. 4; amended: No. 59 of 2012 s. 12; No. 25 of 2016 s. 43; No. 51 of 2016 s. 6; No. 19 of 2018 s. 4.]

49. Driving while unlicensed or disqualified

(1) A person who —

(a) drives a motor vehicle on a road while not authorised under the *Road Traffic (Authorisation to Drive) Act 2008* Part 2 to do so; or

(b) employs or permits another person to drive a motor vehicle as described in paragraph (a),

commits an offence.

Penalty for this subsection:

(a) unless subsection (3) applies —

(i) for a first offence, 6 PU;

(ii) for a subsequent offence, 12 PU;

(b) if subsection (3)(d), but no other paragraph of subsection (3), applies —

(i) a fine of not less than 4 PU or more than 30 PU; and

(ii) imprisonment for not more than 12 months,

and the court may order that the offender be disqualified from holding or obtaining a driver's licence for a period of not more than 3 years;

(c) if subsection (3)(a), (b), (ca), (c) or (da) applies —

(i) for a first offence, a fine of not less than 8 PU or more than 40 PU, and imprisonment for not more than 12 months;

(ii) for a subsequent offence, a fine of not less than 20 PU or more than 80 PU, and imprisonment for not more than 18 months,

and the court shall order that the offender be disqualified from holding or obtaining a driver's licence for a period of not less than 9 months and not more than 3 years.

(2) It is a defence to a charge of an offence under subsection (1) to prove that the motor vehicle was driven in accordance with —

(a) regulations referred to in the *Road Traffic (Authorisation to Drive) Act 2008* section 11(1); or

(b) a necessity permit under section 49A.

(3) If an offence under subsection (1)(a) is committed by a person —

(a) who has applied for, but has been refused, an Australian driver licence of a kind required; or

(b) who, at the time of the commission of the offence, is disqualified from holding or obtaining an Australian driver licence of a kind required, other than for the reason described in paragraph (d), whether or not the person has ever held an Australian driver licence of the kind required; or

(ca) who has held an Australian driver licence of a kind required but ceased to hold the licence of that kind most recently held other than —

(i) because the person had, before the time of the commission of the offence, voluntarily surrendered the licence most recently held; or

(ii) because the licence expired; or

(iii) for the reason described in paragraph (d);

or

(c) whose authority to drive, whether under an Australian driver licence or otherwise, is for the time being suspended other than for the reason described in paragraph (d); or

(da) who is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A; or

(d) who is no longer authorised to drive because of penalty enforcement laws, as described in subsection (9),

a police officer may, without a warrant, arrest the person.

(4) A person who would only come within a description in subsection (3)(a), (b), (ca) or (c) because of a decision for the review of which an application had been made is excluded from that description if the application had been made, but not determined, when the offence under subsection (1)(a) was committed.

(5) If a person to whom the CEO has been ordered under the *Road Traffic (Authorisation to Drive) Act 2008* section 30(1) to grant an extraordinary licence commits an offence under subsection (1)(a) —

(a) before the extraordinary licence is granted; or

(b) when the extraordinary licence has expired and has not been renewed,

neither the order nor any extraordinary licence granted affects subsection (3).

(6) An offence under subsection (1) is a subsequent offence if the offender has previously been convicted of any offence under that subsection as in force at any time, except that, if subsection (3)(a), (b), (ca) or (c) applies to an offence under subsection (1)(a), the offence is a subsequent offence only if the person has previously been convicted of a relevant offence.

(7) In subsection (6) —

relevant offence means —

(a) an offence under subsection (1)(a) as in force after the commencement of section 7 of the *Road Traffic Amendment Act 2006* being an offence to which subsection (3)(a), (b), (ca) or (c) applied; or

(b) an offence under subsection (1)(a) as in force at a time before the commencement of section 7 of the *Road*

Traffic Amendment Act 2006 being an offence that would have been taken into account in determining whether another offence committed before that commencement, in circumstances mentioned in section 49(2)(a)(ii) or (iii) or (2)(b) as then in force, would have been a first or subsequent offence.

(8) A period of disqualification ordered under subsection (1) is cumulative upon —

(a) any other period of disqualification to which the person may then be subject; or

(b) any period for which the operation of a driver's licence held by the person may currently be suspended.

(9) When subsection (3)(d) refers to a person who is no longer authorised to drive because of penalty enforcement laws, it means that the person —

(a) has been disqualified from holding or obtaining a driver's licence under section 19 or 43 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; or

(b) is the subject of any disqualification or suspension under a law of another jurisdiction that is prescribed to be a corresponding law for the purposes of this subsection.

[Section 49 inserted: No. 54 of 2006 s. 7; amended: No. 8 of 2012 s. 10 and 37; No. 2 of 2015 s. 11; No. 25 of 2016 s. 62.]

49A. Person breaching s. 49(1)(a) having lost licence etc. due to penalty enforcement laws, police may caution etc.

(1) This section applies if a police officer finds a person (the ***driver***) committing an offence under section 49(1)(a) in the circumstances referred to in section 49(3)(d).

(2) If this section applies and the police officer suspects on reasonable grounds that, at the time of committing the offence, the driver —

(a) did not know of the circumstances referred to in section 49(3)(d); and

(b) had not been cautioned previously under this section since those circumstances came about,

the police officer may decline to charge the driver with an offence under section 49(1)(a) and may instead issue a caution to the driver.

(3) The caution must be in a prescribed form.

(4) If this section applies and it appears to the police officer that it would be impracticable, or may jeopardise the safety of any person, for the driver to immediately cease driving —

(a) if the police officer issues a caution, the caution must include a necessity permit; and

(b) in any other case, the police officer may grant the driver a necessity permit.

(5) In subsection (4) —

necessity permit means a permit for the driver to drive by the shortest practicable route to a place specified in the permit.

[Section 49A inserted: No. 54 of 2006 s. 8.]

[Section 49A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

*[**50.** Deleted: No. 25 of 2016 s. 4.]*

50A. Driver using foreign country's driver's licence etc. to carry it etc.

(1) A person whose authority to drive depends on a licence or authorisation granted under the law of an external licensing

authority (as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1)) is required —

(a) while driving a motor vehicle on a road, to carry —

(i) the official document that is evidence of that licence or authorisation; and

(ii) if the official document is not in the English language, a translation of it into the English language verified by a person or body approved by the CEO;

and

(b) to produce that document for inspection at the request of any police officer.

(2) If the person fails to comply with any condition to which the licence or authorisation is subject that can lawfully be complied with in this State, the person commits an offence.

Penalty:

(a) for a first offence, 8 PU;

(b) for a subsequent offence, 16 PU.

[Section 50A inserted: No. 54 of 2006 s. 10; amended: No. 8 of 2012 s. 11A (as amended: No. 10 of 2015 s. 14), 36 and 37.]

*[**51.** Deleted: No. 8 of 2012 s. 11.]*

*[**52.** Deleted: No. 76 of 1996 s. 14.]*

*[**53.** Deleted: No. 8 of 2012 s. 11.]*

54. Driver in incident occasioning bodily harm to stop, ensure assistance and give information

(1) If a vehicle driven by a person (the ***driver***) is involved in an incident occasioning bodily harm to another person, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsections (2) and (6).

(2) If a vehicle driven by a person (the ***driver***) is involved in an incident occasioning bodily harm to another person (a ***victim***), the driver must ensure that each victim receives all the assistance, including medical aid, that is necessary and practicable in the circumstances.

(3) A person who contravenes subsection (1) or (2) commits a crime.

Penalty for this subsection: imprisonment for —

(a) 20 years, if the incident occasioned death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;

(b) 14 years, if the incident occasioned grievous bodily harm but not death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;

(c) 10 years, in any other case and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

[(4) deleted]

(5) It is a defence to a charge of an offence under subsection (3) for the accused to prove that the accused was not aware of the occurrence of the incident.

(6) If a vehicle driven by a person (the ***driver***) is involved in an incident occasioning bodily harm to another person (a ***victim***), the driver must, if required to do so by a victim, a representative

of a victim, or a police officer, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle.

Penalty for this subsection: a fine of 30 PU.

(7) It is a defence to a charge of an offence under subsection (3) or (6) for the accused to prove that the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident.

[Section 54 inserted: No. 39 of 2007 s. 20; amended: No. 8 of 2012 s. 37; No. 25 of 2016 s. 5.]

55. Driver in incident occasioning property damage to stop and give information

(1) If a vehicle driven by a person (the ***driver***) is involved in an incident in which any property is damaged, the driver must stop immediately after the occurrence of the incident and for as long as is necessary to comply with subsection (4).

Penalty: a fine of 30 PU.

(2) If in the opinion of the court an offence under subsection (1) is of a sufficiently serious nature the court may make an order disqualifying the offender from holding or obtaining a driver's licence for such period as it thinks fit.

(3) It is a defence to a charge of an offence under subsection (1) for the accused to prove that the accused was not aware of the occurrence of the incident.

(4) If a vehicle driven by a person (the ***driver***) is involved in an incident in which any property is damaged, the driver must, if required to do so by a person whose property was damaged in the incident or a representative of that person or a police officer, give the driver's name and address and, if known to the driver, the name and address of a responsible person for the vehicle.

Penalty: a fine of 30 PU.

(5) It is a defence to a charge of an offence under subsection (1) or (4) for the accused to prove that the accused could not comply with a requirement in that subsection because of an injury suffered by the accused in the incident.

[Section 55 inserted: No. 39 of 2007 s. 20; amended: No. 8 of 2012 s. 37.]

56. Driver in incident occasioning bodily harm or property damage to report incident to police

(1) If a vehicle driven by a person (the ***driver***) is involved in an incident occasioning bodily harm to the driver or another person, the driver must report the incident forthwith to —

(a) the officer in charge of a police station; or

(b) the Commissioner of Police in a manner approved by the Commissioner.

(2) If a person contravenes subsection (1) and the incident occasioned death or grievous bodily harm, the person commits a crime.

Penalty: imprisonment for 10 years and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

Summary conviction penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

(3) If a person contravenes subsection (1) and the incident did not occasion death or grievous bodily harm, the person commits an offence.

Penalty: imprisonment for 12 months and in any event the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

(4) If a vehicle driven by a person (the ***driver***) is involved in an incident in which any property is damaged the driver must report the incident forthwith to —

(a) the officer in charge of a police station; or

(b) the Commissioner of Police in a manner approved by the Commissioner.

Penalty:

(a) for a first offence, a fine of 8 PU;

(b) for a subsequent offence, a fine of 16 PU.

(5) It is a defence to a charge of an offence under subsection (2), (3) or (4) for the accused to prove that —

(a) the accused could not comply with a requirement in the relevant provision because of an injury suffered by the accused in the incident; or

(b) a police officer attended at the scene of the incident and took the necessary particulars of the incident.

(6) It is a defence to a charge of an offence under subsection (4) for the accused to prove —

(a) that the accused had reasonable cause for believing that the total value of the damage did not exceed the amount prescribed for the purposes of this subsection; and

(b) that the owner, in each case, of any property damaged was present or represented at the place where and at the time when, or immediately after, the incident occurred.

[Section 56 inserted: No. 39 of 2007 s. 20; amended: No. 8 of 2012 s. 37; No. 25 of 2016 s. 6.]

[Section 56. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

57. Owner etc. of vehicle occasioning bodily harm etc. to help police identify driver etc.

(1) Where the use of a motor vehicle has occasioned, or been an immediate or proximate cause of, the death of a person or bodily harm to a person, a responsible person for the vehicle and any person to whom the possession or control of the vehicle was entrusted shall, if required by a police officer, give any information which it is in his power to give which may lead to the identification of the person who was driving or who was in charge or control of the vehicle at the time when the use of the vehicle occasioned or was an immediate or proximate cause of the death or bodily harm.

(2) A person who is required under subsection (1) by a police officer to give information must not in response to the request give false information.

Penalty: applicable to subsections (1) and (2), a fine of 60 PU or imprisonment for 12 months.

[Section 57 amended: No. 105 of 1981 s. 19; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 31; No. 39 of 2007 s. 21; No. 8 of 2012 s. 37.]

*[**58, 58A.** Deleted: No. 8 of 2012 s. 12.]*

59. Dangerous driving causing death or grievous bodily harm

(1) If a motor vehicle driven by a person (the ***driver***) is involved in an incident occasioning the death of, or grievous bodily harm to, another person and the driver was, at the time of the incident, driving the motor vehicle —

(a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or

(ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or

(bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

(b) in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits a crime and is liable to the penalty in subsection (3).

Summary conviction penalty in a case in which the incident does not occasion the death of another person: imprisonment for 3 years or a fine of 720 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

(2A) For an offence against this section that was committed before the day on which the *Manslaughter Legislation Amendment Act 2011* section 6(1) came into operation amending subsection (1), subsection (1) applies as if that amendment had not been made.

(2) For the purposes of this section —

[(a) deleted]

(b) it is immaterial that the death or grievous bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment; and

(c) when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.

(3) A person convicted on indictment of an offence against this section is liable —

(a) if the offence is against subsection (1)(a), (ba) or (bb), or the offence is against subsection (1)(b) and is committed in circumstances of aggravation, to a fine of any amount and to imprisonment for —

(i) 20 years, if the person has caused the death of another person; or

(ii) 14 years, if the person has caused grievous bodily harm to another person;

or

(b) in any other circumstances, to a fine of any amount and to imprisonment for —

(i) 10 years, if the person has caused the death of another person; or

(ii) 7 years, if the person has caused grievous bodily harm to another person,

and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

(4A) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —

(a) sentence the person to a term of imprisonment of at least 12 months; and

(b) not suspend the term of imprisonment.

(4B) Subsection (4A) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.

(4) On the summary trial of a person charged with an offence against this section the person may, instead of being convicted of that

offence, be convicted of an offence against section 59A, 59BA(1), 61 or 62.

[Section 59 amended: No. 89 of 1978 s. 12; No. 82 of 1982 s. 9; No. 11 of 1988 s. 24; No. 37 of 1991 s. 6(2); No. 1 of 1992 s. 6; No. 50 of 1997 s. 13; No. 4 of 2004 s. 58; No. 44 of 2004 s. 5; No. 39 of 2007 s. 22; No. 29 of 2008 s. 38; No. 58 of 2011 s. 6; No. 59 of 2012 s. 6; No. 2 of 2015 s. 4; No. 25 of 2016 s. 23.]

59A. Dangerous driving causing bodily harm

(1) If a motor vehicle driven by a person (the ***driver***) is involved in an incident occasioning bodily harm to another person and the driver was, at the time of the incident, driving the motor vehicle —

(a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or

(ba) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle; or

(bb) while under the influence of alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle; or

(b) in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person,

the driver commits an offence.

(2) For the purposes of this section —

[(a) deleted]

(b) it is immaterial that the bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment.

(3) Subject to subsection (3a), a person convicted of an offence against subsection (1) is liable —

(a) for a first offence, to a fine of 180 PU or to imprisonment for 9 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;

(b) for a second or subsequent offence, to a fine of 360 PU or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

(3a) In the case of an offence under subsection (1)(a), (ba) or (bb), or an offence under subsection (1)(b) committed in circumstances of aggravation, the offence is a crime and a person convicted of it is liable to a fine of any amount and imprisonment for 10 years and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

Summary conviction penalty: imprisonment for 3 years or a fine of 720 PU and in any event the court convicting the person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

(4A) A court sentencing a person for an offence against this section committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —

(a) sentence the person to a term of imprisonment of at least 6 months; and

(b) not suspend the term of imprisonment.

(4B) Subsection (4A) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.

(4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 59BA(1), 61 or 62.

[Section 59A inserted: No. 89 of 1978 s. 13; amended: No. 82 of 1982 s. 10; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 6; No. 39 of 2007 s. 23; No. 59 of 2012 s. 7; No. 2 of 2015 s. 5; No. 25 of 2016 s. 24.]

59BA. Careless driving causing death, grievous bodily harm or bodily harm

(1) If a motor vehicle driven by a person (the ***driver***) is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person and the driver was, at the time of the incident, driving the motor vehicle without due care and attention, the driver commits an offence.

Penalty for this subsection: imprisonment for 3 years or a fine of 720 PU and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

(2) For the purposes of subsection (1) —

(a) it is immaterial that the death, grievous bodily harm or bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment; and

(b) when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.

(3) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against section 62.

[Section 59BA inserted: No. 25 of 2016 s. 25.]

59B. Ancillary matters and defences for sections 59, 59A and 59BA

(1) For the purposes of sections 59, 59A and 59BA(1), the circumstances in which a motor vehicle is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, a person include those in which the death or harm is occasioned through —

(a) the motor vehicle overturning or leaving a road while the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or

(b) the person falling from the motor vehicle while being conveyed in or on it (whether as a passenger or otherwise); or

(c) an impact between any object or thing and the motor vehicle while the person is being conveyed in or on the motor vehicle (whether as a passenger or otherwise); or

(d) an impact between the person and the motor vehicle; or

(e) an impact of the motor vehicle with another vehicle or an object or thing in, on or near which the person is at the time of impact; or

(f) an impact with any object on or attached to the motor vehicle; or

(g) an impact with any object that is in motion through falling from the motor vehicle.

(2) For the purposes of sections 59, 59A and 59BA(1), a motor vehicle is also involved in an incident occasioning the death of,

or grievous bodily harm or bodily harm to, a person if the death or harm is occasioned through the motor vehicle —

(a) causing an impact between other vehicles or between another vehicle and any object, thing or person; or

(b) causing another vehicle to overturn or leave a road; or

(c) causing a person being conveyed in or on another vehicle to fall from that other vehicle.

[(3), (4) deleted]

(5) In any proceeding for an offence against section 59 or 59A a person who had at the time of the alleged offence a blood alcohol content of or above 0.15 g of alcohol per 100 ml of blood shall be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.

(6) In any proceeding for an offence against section 59 or 59A it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not in any way attributable (as relevant) —

(a) to the fact that the person charged was under the influence of alcohol, drugs, or alcohol and drugs; or

(b) to the manner (which expression includes speed) in which the motor vehicle was driven.

(7) In any proceeding for an offence against section 59BA(1) it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not in any way attributable to the level of care and attention with which the motor vehicle was driven.

[Section 59B inserted: No. 44 of 2004 s. 7; amended: No. 39 of 2007 s. 4; No. 59 of 2012 s. 8; No. 25 of 2016 s. 26.]

60. Driving in reckless manner

(1) For the purposes of this section, a motor vehicle is driven in a ***reckless manner*** if it is driven in a manner (which expression includes speed) that is inherently dangerous or that is, having regard to all the circumstances of the case, dangerous to the public or to any person.

(1A) A person commits an offence if the person wilfully drives a motor vehicle in a reckless manner in —

(a) a confiscation zone; or

(b) any other place.

[(1b), (1c), (1D) deleted]

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 60A, 61, 62 or 62A.

[Section 60 amended: No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 10 of 2004 s. 8; No. 54 of 2006 s. 12; No. 24 of 2008 s. 4; No. 23 of 2009 s. 5; No. 8 of 2012 s. 37; No. 59 of 2012 s. 9; No. 51 of 2016 s. 7.]

60A. Driving at reckless speed

(1) A person commits an offence if the person drives a motor vehicle at a speed of 155 km/h or more on any other length of road.

(2) A person commits an offence if the person drives a motor vehicle at 45 km/h or more above the speed limit —

(a) in a confiscation zone; or

(b) on any other length of road.

(3) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 60(1A), 61 or 62.

[Section 60A inserted: No. 51 of 2016 s. 8.]

60B. Penalties for offences against sections 60 and 60A

(1) In this section —

offence means an offence against section 60 or 60A.

(2) A person convicted of an offence is liable —

(a) for a first offence, to a fine of 120 PU or to imprisonment for 9 months; and

(b) for a second offence, to a fine of 180 PU or to imprisonment for 9 months; and

(c) for a third or subsequent offence, to a fine of 240 PU or to imprisonment for 12 months.

(3) In any event, a court convicting a person —

(a) of a first offence, must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months; and

(b) of a second offence, must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months; and

(c) of a third or subsequent offence, must order that the person be permanently disqualified from holding or obtaining a driver's licence.

(4) If an offence is committed in the circumstance of aggravation referred to in section 49AB(1)(c), the offence is a crime.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 2 years.

(5) A court sentencing a person for an offence committed in the circumstance of aggravation referred to in section 49AB(1)(c) must —

(a) sentence the person to a term of imprisonment of at least 6 months; and

(b) not suspend the term of imprisonment; and

(c) for a first or second offence — order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and

(d) for a third or subsequent offence — order that the offender is permanently disqualified from holding or obtaining a driver's licence.

(6) Subsection (5) applies whether the person was convicted on indictment or summarily and despite the *Sentencing Act 1995* Part 5.

(7) A reference in subsection (5)(c) or (d) to an offence is a reference to the offence whether or not committed in the circumstance of aggravation referred to in section 49AB(1)(c).

[Section 60B inserted: No. 51 of 2016 s. 8.]

60C. Arrest without warrant for driving in reckless manner or at reckless speed

A police officer who reasonably suspects that a person has committed an offence against section 60 or 60A may, without a warrant, arrest the person.

[Section 60C inserted: No. 51 of 2016 s. 8.]

61. Dangerous driving

(1) Every person who drives a motor vehicle in a manner (which expression includes speed) that is, having regard to all the circumstances of the case, dangerous to the public or to any person commits an offence.

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 62 or 62A.

(3) A person convicted of an offence against this section is liable —

(a) unless paragraph (b) applies —

(i) for a first offence — to a fine of 60 PU;

(ii) for a subsequent offence — to a fine of 120 PU or to imprisonment for 9 months; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 12 months;

(b) if the offence is committed in the circumstance of aggravation referred to in section 49AB(1)(c) — to a fine of 720 PU or to imprisonment for 3 years; and, in any event, the court convicting the person must order that the offender is disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

(4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by him against section 59, 59A, 60, as in force from time to time, or 60A shall be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

[Section 61 amended: No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(2); No. 54 of 2006 s. 13; No. 23 of 2009 s. 6; No. 59 of 2012 s. 10; No. 51 of 2016 s. 9.]

61A. Defence for police officers driving in reckless manner in certain circumstances

(1) It is a defence to a prosecution for an offence against section 59(1)(b), 59A(1)(b), 60(1A) or 61(1) if the accused satisfies the court that, at the time of the alleged commission of the offence —

(a) the accused was on official duty as a police officer; and

(b) the driving was substantially in accordance with the Commissioner's policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; and

(c) having regard to all of the circumstances of the case, it was reasonable, and in the public interest, for the accused to have driven the motor vehicle in the manner that he or she did.

(2) Subsection (1) does not affect the application of any other defence the accused may have.

[Section 61A inserted: No. 59 of 2012 s. 11; amended: No. 59 of 2012 s. 12; No. 51 of 2016 s. 10.]

61B. Defence for certain officers driving at reckless speed

The driver of a motor vehicle is not guilty of an offence under section 60A if —

(a) either —

(i) the driver is on official duty as a police officer and the driving is substantially in accordance with the Commissioner's policies and guidelines relating to driving, applicable at the time of the driving, and any direction given under such a policy or guideline; or

(ii) the driver is on official duty responding to a fire or fire alarm; or

(iii) the driver is on official duty responding to an emergency or rescue operation where it is reasonable to assume that human life is likely to be in danger; or

(iv) the motor vehicle is an ambulance and is being used to answer an urgent call or to convey a person to a place for the provision of urgent medical treatment;

and

(b) the driver is taking reasonable care; and

(c) the vehicle is displaying a blue or red flashing light or sounding an alarm unless, in the circumstances, it is reasonable for a light not to be displayed or an alarm not to be sounded.

[Section 61B inserted: No. 51 of 2016 s. 11.]

62. Careless driving

Every person who drives a motor vehicle without due care and attention commits an offence.

Penalty: a fine of 30 PU.

[Section 62 amended: No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 25 of 2016 s. 27.]

62A. Causing excessive noise or smoke from vehicle's tyres

A person commits an offence if the person wilfully drives a motor vehicle so as to cause one or more of its tyres to create smoke or excessive noise in or on, or leave a substance on the driving surface of —

(a) a confiscation zone; or

(b) any other length of road; or

(c) a carpark.

Penalty: a fine of 30 PU.

[Section 62A inserted: No. 51 of 2016 s. 12.]

Division 2A — Providing driving instruction to learner drivers: alcohol and drug related offences

[Heading inserted: No. 25 of 2016 s. 44.]

62B. Providing driving instruction: blood alcohol content

(1) An instructor who provides driving instruction to a learner driver while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.

Penalty for this subsection: a fine of not less than 15 PU or more than 25 PU.

(2) Subsection (4) applies to an instructor who —

(a) holds an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1); or

(b) has, within the last 3 years, ceased to be subject to an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against section 63, 67 or 67AD(6), or for a second or subsequent offence against section 64, 64B(3) or 67AD(4); or

(c) has, within the last 3 years, been granted a driver's licence in a case where the instructor did not hold a driver's licence because it had been cancelled under a cancellation provision as a result of an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against section 63, 67 or 67AD(6), or for a second or subsequent offence against section 64, 64B(3) or 67AD(4); or

(d) is a member of a class of persons prescribed for the purposes of section 64A(2)(g) by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

(3) In subsection (2)(c) —

cancellation provision means —

(a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or

(b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.

(4) An instructor to whom this subsection applies who provides driving instruction to a learner driver while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 15 PU or more than 25 PU.

(5) An instructor who provides driving instruction to a learner driver in respect of a motor vehicle that has a GCM that is 22.5 tonnes or more while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 15 PU or more than 25 PU.

(6) It is a defence to a charge of an offence against subsection (4) or (5) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —

(a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);

(b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

(7) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against subsection (4) or (5) if, at the time of the alleged offence, the person was a person to whom subsection (4) or (5) applied.

[Section 62B inserted: No. 25 of 2016 s. 44; amended: No. 25 of 2016 s. 45; No. 27 of 2020 s. 4.]

62C. Providing driving instruction with prescribed illicit drug in oral fluid or blood

(1) An instructor who provides driving instruction to a learner driver while a prescribed illicit drug is present in the instructor's oral fluid or blood commits an offence.

Penalty for this subsection: a fine of not less than 15 PU or more than 25 PU.

(2) If in any proceeding for an offence against this section it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), after the time that the accused was providing the driving instruction, the presence of that drug in the accused's body at the time the accused was providing the driving instruction is to be taken to be proved in the absence of proof to the contrary.

(3) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against this section if that other drug is also a drug within the meaning of paragraph (a) or (b) of the definition of ***drug*** in section 65.

[Section 62C inserted: No. 25 of 2016 s. 44; amended: No. 25 of 2016 s. 46; No. 27 of 2020 s. 5.]

Division 2 — Driving of vehicles: alcohol and drug related offences

[Heading inserted: No. 10 of 2004 s. 9.]

63. Driving under the influence of alcohol, drugs or alcohol and drugs

(1) A person who drives or attempts to drive a motor vehicle —

(a) while under the influence of alcohol to such an extent as to be incapable of having proper control of the vehicle; or

(b) while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle,

[(c) deleted]

commits an offence.

Penalty for this subsection:

(a) for a first offence, if the person has committed the offence under paragraph (a) and has been previously convicted of an offence against section 64 —

(i) a fine of not less than 48 PU and not more than 75 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period not less than the minimum period of disqualification that would apply if the offence were against section 64 instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(b) for a first offence, if the person has committed the offence under paragraph (a) and has been previously

convicted of an offence against section 64B(3), or offences against sections 64 and 64B(3) —

(i) a fine of not less than 54 PU and not more than 75 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period not less than the minimum period of disqualification that would apply if the offence were against section 64B(3) instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(c) for a first offence, in any other case —

(i) a fine of not less than 34 PU or more than 75 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;

(d) for a second offence —

(i) a fine of not less than 63 PU or more than 105 PU or imprisonment for 9 months; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months;

(e) for a subsequent offence —

(i) a fine of not less than 63 PU or more than 150 PU or imprisonment for 18 months; and

(ii) the court convicting the person must, in any event, order that the person be permanently

disqualified from holding or obtaining a driver's licence.

(1A) For the purposes of subsection (1), a previous conviction for an offence against subsection (2) or section 64AB, 67, 67AA or 67AD(6) is taken to be a previous offence against subsection (1).

(2) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol and a drug to such an extent as to be incapable of having proper control of the vehicle commits an offence.

Penalty for this subsection:

(a) for a first offence, if the person has been previously convicted of an offence against section 64 —

(i) a fine of not less than 48 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if the offence were against section 64 instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(b) for a first offence, if the person has been previously convicted of an offence against section 64B(3), or offences against sections 64 and 64B(3) —

(i) a fine of not less than 72 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum

period of disqualification that would apply if the offence were against section 64B(3) instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(c) for a first offence, in any other case —

(i) a fine of not less than 41 PU or more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 15 months;

(d) for a second offence —

(i) a fine of not less than 95 PU or more than 158 PU or imprisonment for 9 months; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 42 months;

(e) for a subsequent offence —

(i) a fine of not less than 95 PU or more than 225 PU or imprisonment for 18 months; and

(ii) the court convicting the person must, in any event, order that the person be permanently disqualified from holding or obtaining a driver's licence.

(3) For the purposes of subsection (2), a previous conviction for an offence against section 64AB, 67, 67AA or 67AD(6) is taken to be a previous offence against subsection (2).

(3A) A person who commits an offence against subsection (1) or (2) may be arrested without warrant.

(4) The charging of a person with an offence against this section must not limit the operation of section 66, but the person charged must immediately be told by the person laying the charge that —

(a) the person charged has the right to be examined by a medical practitioner nominated by them, if one is available; and

(b) the person charged has the right to communicate with a legal practitioner and another person nominated by them,

and if the person charged desires to exercise any of those rights, every reasonable facility to do so must be afforded them.

(4a) The rights and requirements in subsection (4) do not apply unless the person is under arrest or otherwise in custody at the time of being charged.

(4b) The right in subsection (4)(a), and the requirements relating to it, do not apply if a sample of the person's blood has been taken pursuant to section 66, 66B or 66E before the person is charged.

(5) In any proceeding for an offence against this section a person who had at the time of the alleged offence a blood alcohol content of or above 0.15 g of alcohol per 100 ml of blood must be deemed to have been under the influence of alcohol to such an extent as to be incapable of having proper control of a motor vehicle at the time of the alleged offence.

(6) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of —

(a) an offence against section 64, 64AA, 64AB or 64AC; or

(b) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or

(c) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

(6A) A person charged with an offence against subsection (2) may, instead of being convicted of that offence, be convicted of —

(a) an offence against subsection (1) or section 64, 64AA, 64AB, 64AC or 64B; or

(b) an offence against section 64A(1), 64AAA(1) or 64C if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or

(c) an offence against section 64A(4), 64AAA(2) or 64C if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

(7) In any proceedings for an offence against subsection (1)(b), it is a defence for the accused to prove —

(a) that the drugs, under the influence of which the accused is alleged or appears on the evidence to be, were —

(i) taken by the accused pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or

(ii) administered to the accused by a medical practitioner, nurse practitioner or dentist,

for therapeutic purposes; and

(b) that the accused was not aware, and could not reasonably have been expected to be aware, that those drugs were likely to render them incapable of having proper control of a motor vehicle.

[Section 63 amended: No. 82 of 1982 s. 11; No. 11 of 1988 s. 24; No. 13 of 1992 s. 7; No. 50 of 1997 s. 13; No. 9 of 2003 s. 54; No. 50 of 2003 s. 92(2); No. 84 of 2004 s. 82; No. 50 of 2006 Sch. 3 cl. 20(2); No. 54 of 2006 s. 14 and 17(3) and (4); No. 6 of 2007 s. 5; No. 39 of 2007 s. 5 and 31; No. 35 of 2010

s. 151; No. 14 of 2011 s. 5; No. 2 of 2015 s. 6; No. 27 of 2020 s. 6.]

64. Driving with blood alcohol content of or above 0.08

(1) A person who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.08 g of alcohol per 100 ml of blood commits an offence, and the offender may be arrested without warrant.

(2) If a court convicts a person of an offence against this section —

(a) the person is liable to a fine of not less than the minimum fine or more than the maximum fine in the Table to this subsection; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.08 but < 0.09	Min: Max: Disq:	15 PU 45 PU 6 months	32 PU 45 PU 8 months	32 PU 45 PU 10 months
≥ 0.09 but < 0.11	Min: Max: Disq:	17 PU 45 PU 7 months	34 PU 45 PU 10 months	34 PU 45 PU 13 months
≥ 0.11 but < 0.13	Min: Max: Disq:	20 PU 45 PU 8 months	36 PU 60 PU 14 months	36 PU 60 PU 17 months
≥ 0.13	Min: Max: Disq:	23 PU 45 PU 9 months	48 PU 75 PU 18 months	48 PU 90 PU 30 months

Note: ≥ signifies of or above
< signifies less than

Disq signifies the minimum period of disqualification
Max signifies the maximum fine
Min signifies the minimum fine

(2a) For the purposes of the Table to subsection (2), an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the commission of any previous offence against this section.

(3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64B(3), 67 or 67AD(4) or (6) must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.

(4) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of —

(a) an offence against section 64AA; or

(b) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or

(c) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64 amended: No. 71 of 1979 s. 9; No. 82 of 1982 s. 12; No. 11 of 1988 s. 24; No. 13 of 1992 s. 8; No. 50 of 1997 s. 6; No. 54 of 2006 s. 15 and 17(3) and (4); No. 39 of 2007 s. 6 and 32; No. 51 of 2010 s. 6; No. 14 of 2011 s. 6; No. 27 of 2020 s. 7.]

64AA. Driving with blood alcohol content of or above 0.05

(1) A person who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.

(2) If a court convicts a person of a first offence against this section the person is liable to a fine of not more than 25 PU.

(2a) If a court convicts a person of a second or subsequent offence against this section —

(a) the person is liable to a fine of not less than the minimum fine or more than the maximum fine in the Table to this subsection; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the relevant minimum period of disqualification in the Table to this subsection.

Table

Blood alcohol content (g/100 ml)		**Second offence**	**Subsequent offence**
≥ 0.05 but < 0.07	Min: Max: Disq:	25 PU 40 PU 6 months	25 PU 40 PU 8 months
≥ 0.07	Min: Max: Disq:	30 PU 40 PU 8 months	30 PU 40 PU 10 months

Note: ≥ signifies of or above
< signifies less than
Disq signifies the minimum period of disqualification
Max signifies the maximum fine
Min signifies the minimum fine

(2b) For the purposes of this section, an offence is a second or subsequent offence against this section irrespective of the blood

alcohol content on the occasion of the commission of any previous offence against this section.

(2c) For the purposes of this section, where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64, 64B, 67 or 67AD must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.

(3) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of —

(a) an offence against section 64A(1) or 64AAA(1) if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or

(b) an offence against section 64A(4) or 64AAA(2) if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

[Section 64AA inserted: No. 13 of 1992 s. 9; amended: No. 50 of 1997 s. 7; No. 54 of 2006 s. 16, 17(3) and (4); No. 39 of 2007 s. 7, 17 and 33; No. 14 of 2011 s. 7; No. 2 of 2015 s. 7; No. 27 of 2020 s. 8.]

64A. Certain persons driving with blood alcohol content of or above 0.02

(1A) In this section —

cancellation provision means —

(a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or

(b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.

(1) A person to whom this subsection applies who drives or attempts to drive a motor vehicle while having a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood commits an offence.

Penalty for this subsection:

(a) a fine of not less than 8 PU or more than 15 PU; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than 3 months.

(2) Subsection (1) applies to a person who —

(a) is a novice driver as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 40(2); or

[(b) deleted]

(c) is subject to an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63, 67 or 67AD(6), or for a second or subsequent offence against section 64, 64B(3) or 67AD(4); or

(d) does not hold a driver's licence because it has been cancelled under a cancellation provision as a result of an order disqualifying the person from holding or obtaining a driver's licence imposed on the person upon being convicted of an offence committed after the commencement of the *Road Traffic Amendment Act 1997*; or

(e) holds an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1); or

(f) is a recently disqualified driver; or

(g) is a member of a class of persons prescribed for the purposes of this paragraph by regulations made for the

purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

(3) For the purpose of subsection (2), a person is a recently disqualified driver if, within the last 3 years, the person —

(a) has ceased to be subject to; or

(b) has been granted a driver's licence in a case where the person did not hold a driver's licence because it had been cancelled under a cancellation provision as a result of,

an order disqualifying the person from holding or obtaining a driver's licence imposed for an offence against section 63, 67 or 67AD(6), or for a second or subsequent offence against section 64, 64B(3) or 67AD(4).

(4) A person who drives or attempts to drive a motor vehicle to which this subsection applies while having a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood commits an offence.

Penalty for this subsection:

(a) a fine of not less than 8 PU or more than 15 PU; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than 3 months.

(4A) Subsection (4) does not apply to a person who drives or attempts to drive a motor vehicle described in subsection (5)(a) or (d) if the person —

(a) is a person of a class prescribed by the regulations for the purposes of this paragraph; and

(b) is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the *Fire and Emergency Services Act 1998* section 3.

(5) Subsection (4) applies to a motor vehicle —

(a) that is equipped to seat more than 12 adult persons (including the driver), if, at the relevant time, the vehicle is carrying passengers, whether or not the passengers are being transported for hire or reward as defined in the *Transport (Road Passenger Services) Act 2018* section 11 (except subsection (2)); or

[(b) deleted.]

(c) if, at the relevant time, the vehicle is transporting passengers for hire or reward as defined in the *Transport (Road Passenger Services) Act 2018* section 11 (except subsection (2)); or

(d) that has a GCM that is 22.5 tonnes or more; or

(e) that is of a class prescribed by the regulations for the purposes of this paragraph, if, at the relevant time, the vehicle is being used to transport dangerous goods as defined in the *Dangerous Goods Safety Act 2004* section 3(1).

[(6) deleted]

(7) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against section 64AAA(1).

(8) A person charged with an offence against subsection (4) may, instead of being convicted of that offence, be convicted of an offence against section 64AAA(2).

[Section 64A inserted: No. 82 of 1982 s. 13; amended: No. 11 of 1988 s. 22; No. 13 of 1992 s. 10; No. 50 of 1997 s. 8; No. 28 of 2001 s. 23(2); No. 54 of 2006 s. 17(1) and (2); No. 39 of 2007 s. 8 and 34; No. 14 of 2011 s. 8; No. 8 of 2012 s. 13 (as amended: No. 10 of 2015 s. 15); No. 22 of 2012 s. 138; No. 2 of 2015 s. 12; No. 25 of 2016 s. 7; No. 26 of 2018 s. 311; No. 27 of 2020 s. 9.]

64AAA. Certain persons driving with any blood alcohol content

(1) A person to whom section 64A(1) applies who drives or attempts to drive a motor vehicle while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 8 PU or more than 15 PU.

(2) A person who drives or attempts to drive a motor vehicle to which section 64A(4) applies while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 8 PU or more than 15 PU.

(2A) Subsection (2) does not apply to a person who drives or attempts to drive a motor vehicle described in section 64A(5)(a) or (d) if the person —

(a) is a person of a class prescribed by the regulations for the purposes of this paragraph; and

(b) is driving or attempting to drive the vehicle in the course of responding to an incident as defined in the *Fire and Emergency Services Act 1998* section 3.

(3) It is a defence to a charge of an offence against subsection (1) or (2) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —

(a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);

(b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

[Section 64AAA inserted: No. 14 of 2011 s. 9; amended: No. 22 of 2012 s. 139; No. 27 of 2020 s. 10.]

64AB. Driving while impaired by drugs

(1) A person who drives or attempts to drive a motor vehicle while impaired by drugs commits an offence, and the offender may be arrested without warrant.

(2) A person convicted of an offence against this section is liable —

(a) for a first offence, to a fine of not less than 34 PU or more than 75 PU; and the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months; and

(b) for a second offence, to a fine of not less than 63 PU or more than 105 PU or to imprisonment for 9 months; and the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 30 months; and

(c) for a third or subsequent offence, to a fine of not less than 63 PU or more than 150 PU or to imprisonment for 18 months; and the court convicting the person must, in any event, order that the person be permanently disqualified from holding or obtaining a driver's licence.

(3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 67, 67AA or 67AD(6) must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.

(4) Section 63(4) to (4b) extend to the charging of a person with an offence against this section.

(5) The accused may be convicted of an offence against this section if the prosecutor proves that —

(a) the accused drove or attempted to drive a motor vehicle; and

(b) one or more drugs were present in the accused's body at the time of that driving or attempted driving; and

(c) the conduct, condition or appearance of the accused at or after the time of that driving or attempted driving, or during a driver assessment, was consistent with conduct, a condition or an appearance associated with a person who has consumed or used that drug or those drugs; and

(d) the conduct or condition associated with a person who has consumed or used that drug or those drugs would be inconsistent with the person being capable of having proper control of a motor vehicle.

(6) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section 63 or 64AC.

(7) If in any proceeding for an offence against this section it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.

(8) In any proceeding for an offence against this section it is a defence for the accused to prove in respect of the drug, or each drug, referred to in subsection (5) —

(a) that the drug was —

(i) taken pursuant to a prescription of a medical practitioner, nurse practitioner or dentist; or

(ii) administered by a medical practitioner, nurse practitioner or dentist,

for therapeutic purposes; and

(b) that where the drug was received or obtained by the accused in a packaged form, the packaging of the drug did not include a label advising that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle; and

(c) that the accused was not aware, and could not reasonably have been expected to be aware, that the drug was likely to result in conduct or a condition that would be inconsistent with the person being capable of having proper control of a motor vehicle.

(9) Subsection (8) has effect despite subsection (5).

[Section 64AB inserted: No. 6 of 2007 s. 6; amended: No. 35 of 2010 s. 152; No. 14 of 2011 s. 10; No. 25 of 2016 s. 31; No. 27 of 2020 s. 11.]

64AC. Driving with prescribed illicit drug in oral fluid or blood

(1) A person who drives or attempts to drive a motor vehicle while a prescribed illicit drug is present in the person's oral fluid or blood commits an offence.

(2) A person convicted of an offence against this section is liable —

(a) for a first offence, to a fine of not more than 25 PU; and

(b) for a second or subsequent offence, to a fine of not less than 25 PU or more than 40 PU; and the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

(3) For the purposes of subsection (2), where a person is convicted of an offence against this section any offence previously committed by the person against section 64AB, 64B, 64C,

67AB or 67AD must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.

[(4), (5) deleted]

[Section 64AC inserted: No. 6 of 2007 s. 6; amended: No. 14 of 2011 s. 11; No. 25 of 2016 s. 32; No. 27 of 2020 s. 12.]

64B. Driving with blood alcohol content of or above 0.05 with prescribed illicit drug in oral fluid or blood

(1) A person commits an offence if the person drives or attempts to drive a motor vehicle while —

(a) a prescribed illicit drug is present in the person's oral fluid or blood; and

(b) the person has a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood.

Penalty for this subsection:

(a) a fine of not less than the minimum fine or more than the maximum fine in the Table; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the minimum period of disqualification in the Table.

Table

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.05 but < 0.07	Min: Max: Disq:	None 38 PU 3 months	38 PU 60 PU 9 months	38 PU 60 PU 12 months

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.07	Min: Max: Disq:	None 38 PU 3 months	45 PU 60 PU 12 months	45 PU 60 PU 15 months

Note: ≥ signifies of or above
< signifies less than
Disq signifies the minimum period of disqualification
Max signifies the maximum fine
Min signifies the minimum fine

(2) For the purposes of subsection (1), a previous conviction for an offence against subsection (3) or section 63, 64, 64AA, 64AB, 64AC, 67, 67AA or 67AD is taken to be a previous offence against subsection (1).

(3) A person commits an offence if the person drives or attempts to drive a motor vehicle while —

(a) a prescribed illicit drug is present in the person's oral fluid or blood; and

(b) the person has a blood alcohol content of or above 0.08 g of alcohol per 100 ml of blood.

Penalty for this subsection:

(a) a fine of not less than the minimum fine or more than the maximum fine in the Table; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the minimum period of disqualification in the Table.

Table

Blood alcohol content (g/100 ml)		First offence	Second offence	Subsequent offence
≥ 0.08 but < 0.09	Min: Max: Disq:	23 PU 68 PU 9 months	48 PU 68 PU 12 months	48 PU 68 PU 15 months
≥ 0.09 but < 0.11	Min: Max: Disq:	26 PU 68 PU 11 months	51 PU 68 PU 15 months	51 PU 68 PU 20 months
≥ 0.11 but < 0.13	Min: Max: Disq:	30 PU 68 PU 12 months	54 PU 90 PU 21 months	54 PU 90 PU 26 months
≥ 0.13	Min: Max: Disq:	35 PU 68 PU 14 months	72 PU 113 PU 27 months	72 PU 135 PU 42 months

Note: ≥ signifies of or above

< signifies less than

Disq signifies the minimum period of disqualification

Max signifies the maximum fine

Min signifies the minimum fine

(4) For the purposes of subsection (3), a previous conviction for an offence against section 63, 64, 64AB, 67, 67AA or 67AD(4) or (6) is taken to be a previous offence against subsection (3).

(5) For the purposes of subsections (1) and (3), an offence is a second or subsequent offence against this section irrespective of the blood alcohol content on the occasion of the conviction of any previous offence against this section.

(6) A person who commits an offence against subsection (1) or (3) may be arrested without warrant.

(7) A person charged with an offence against subsection (1) or (3) may, instead of being convicted of that offence, be convicted of an offence against —

(a) section 64, 64AA or 64AC; or

(b) section 64A(1), 64AAA(1) or 64C if, at the time of the alleged offence, the person was a person to whom section 64A(1) applied; or

(c) section 64A(4), 64AAA(2) or 64C if, at the time of the alleged offence, the motor vehicle concerned was a motor vehicle to which section 64A(4) applied.

(8) A person charged with an offence against subsection (3) may, instead of being convicted of that offence, be convicted of an offence against subsection (1).

[Section 64B inserted: No. 27 of 2020 s. 13.]

64C. Certain persons driving with any blood alcohol content with prescribed illicit drug in oral fluid or blood

(1) A person commits an offence if —

(a) the person drives or attempts to drive a motor vehicle while —

(i) a prescribed illicit drug is present in the person's oral fluid or blood; and

(ii) the person has any blood alcohol content;

and

(b) either —

(i) section 64A(1) applies to the person; or

(ii) section 64A(4) applies to the vehicle.

Penalty for this subsection:

(a) for a first offence —

(i) a fine of not less than 12 PU or more than 38 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;

(b) for a second or subsequent offence —

(i) a fine of not less than 38 PU or more than 60 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 9 months.

(2) It is a defence to a charge of an offence against subsection (1) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —

(a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);

(b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.

(3) For the purposes of subsection (1), a previous conviction for an offence against subsection (4) or section 63, 64, 64AA, 64A, 64AAA, 64AB, 64AC, 64B, 67, 67AA, 67AB, 67AC or 67AD is taken to be a previous offence against subsection (1).

(4) A person commits an offence if —

(a) the person drives or attempts to drive a motor vehicle while —

(i) a prescribed illicit drug is present in the person's oral fluid or blood; and

(ii) the person has a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood;

and

(b) either —

(i) section 64A(1) applies to the person; or

(ii) section 64A(4) applies to the vehicle.

Penalty for this subsection:

(a) for a first offence —

(i) a fine of not less than 12 PU or more than 38 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;

(b) for a second or subsequent offence —

(i) a fine of not less than 38 PU or more than 60 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months.

(5) For the purposes of subsection (4), a previous conviction for an offence against section 63, 64, 64AA, 64A, 64AAA, 64AB, 64AC, 64B, 67, 67AA, 67AB, 67AC or 67AD is taken to be a previous offence against subsection (4).

(6) A person charged with an offence against subsection (1) or (4) may, instead of being convicted of that offence, be convicted of an offence against section 64A(1), 64AAA(1) or 64AC.

[Section 64C inserted: No. 27 of 2020 s. 13.]

64D. Provisions for s. 64AC, 64B and 64C

(1) If in any proceeding for an offence against section 64AC, 64B or 64C it is proved that a certain drug was present in the accused's body at any time within 4 hours, or 12 hours if the sample was taken under section 66(8B), after the time of the

driving or attempted driving of a motor vehicle that gave rise to the alleged offence, the presence of that drug in the accused's body at the time of that driving or attempted driving is taken to be proved in the absence of proof to the contrary.

(2) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against section 64AC, 64B or 64C if that other drug is also a drug within the meaning of paragraph (a) or (b) of the definition of ***drug*** in section 65.

[Section 64D inserted: No. 27 of 2020 s. 13.]

65. Terms used in s. 59 to 73

For the purposes of sections 59 to 73, inclusive —

analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to determine the concentration of alcohol in bodily substances;

approved device means a device of a type approved by the Minister under section 72(2)(c) for the purpose of ascertaining the presence of prescribed illicit drugs in a person's oral fluid;

authorised drug tester means a person authorised by the Commissioner of Police to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D;

authorised person means a person certified by the Commissioner of Police as being competent to operate all types of breath analysing equipment;

blood alcohol content means the concentration of alcohol in a person's blood, expressed in grams of alcohol per 100 ml of blood;

breath analysing equipment means apparatus of a type approved by the Minister under section 72(2)(a) for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of his breath;

conduct includes behaviour and demeanour;

dentist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners kept under that Law;

driver assessment means an assessment of drug impairment required by a police officer under section 66A(1) or (2);

drug means —

(a) a drug to which the *Misuse of Drugs Act 1981* applies; or

(b) a Schedule 4 poison as defined in the *Medicines and Poisons Act 2014* section 3; or

(c) a substance (other than alcohol) that, when consumed or used by a person, deprives the person (temporarily or permanently) of any of the person's normal mental or physical faculties;

drug testing, in relation to oral fluid, means testing for the presence of prescribed illicit drugs;

drugs analyst means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to ascertain whether and to what extent drugs are present in bodily substances;

medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession whose registration under that Law is endorsed as nurse practitioner;

preliminary oral fluid test means a test of a sample of a person's oral fluid by means of a device of a type approved by the Minister under section 72(2)(d) for the purpose of providing a preliminary indication of the presence of prescribed illicit drugs in the oral fluid, and a person ***undergoes*** a preliminary

oral fluid test if the person provides a sample of the person's oral fluid for a preliminary oral fluid test;

preliminary test means a test of a sample of a person's breath by means of apparatus of a type approved by the Minister under section 72(2)(b) for the purpose of providing an indication of a person's blood alcohol content or an indication of whether or not a person's blood alcohol content is of or above a predetermined level or an indication of whether or not alcohol is present in the blood of a person;

prescribed illicit drug means a drug that is declared by the regulations to be a prescribed illicit drug;

prescribed sample taker means —

(a) a medical practitioner or registered nurse; or

(b) an appropriately qualified person prescribed for the purposes of the provision in which the term is used;

registered nurse means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession whose name is entered on Division 1 of the Register of Nurses kept under that Law as a registered nurse.

[Section 65 amended: No. 82 of 1982 s. 14; No. 121 of 1987 s. 5; No. 19 of 1990 s. 8; No. 39 of 2000 s. 34; No. 44 of 2004 s. 8; No. 50 of 2006 Sch. 3 cl. 20(3); No. 6 of 2007 s. 7; No. 10 of 2007 s. 43; No. 39 of 2007 s. 9; No. 22 of 2008 Sch. 3 cl. 51; No. 35 of 2010 s. 153; No. 8 of 2012 s. 37; No. 13 of 2014 s. 188; No. 25 of 2016 s. 8 and 33; No. 4 of 2018 s. 120; No. 27 of 2020 s. 14.]

[Section 65. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

65A. Using breath sample to find blood alcohol content

(1) For the purposes of sections 59 to 73, inclusive, if the concentration of alcohol in a person's breath is a particular number of grams of alcohol per 210 litres of breath the person's blood alcohol content is to be regarded as being that number of grams of alcohol per 100 ml of blood.

(2) For the purposes of section 72(2)(a) and the definition of ***breath analysing equipment*** in section 65, apparatus is to be regarded as being for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of the person's breath whether the apparatus gives the blood alcohol content directly as the analysis result or enables it to be derived under subsection (1).

(3) For the purposes of the definition of ***preliminary test*** in section 65, apparatus is to be regarded as being for the purpose of providing an indication of the kind mentioned in that definition whether the apparatus gives the indication directly or enables it to be derived under subsection (1).

[Section 65A inserted: No. 39 of 2007 s. 10; amended: No. 25 of 2016 s. 9.]

66. Police powers to require breath or blood sample

(1) A police officer may require the driver or person in charge of a motor vehicle, or any person the police officer has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to provide a sample of the person's breath for a preliminary test in accordance with the directions of the police officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1aa) A police officer may —

(a) call upon the driver of a motor vehicle to stop the vehicle;

(b) direct the driver of a motor vehicle to wait at a place indicated by the police officer,

in order that a requirement may be made under subsection (1).

(1a) Where a police officer —

(a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the police officer may require any person who the police officer has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to provide a sample of the person's breath for a preliminary test in accordance with the directions of the police officer, and for the purposes of this subsection may require that person to wait at the place at which the first-mentioned requirement was made.

(1b) Where a person required under subsection (1) or (1a) to provide a sample of breath for a preliminary test is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of providing the sample.

(2) Where —

(a) a person having provided a sample of the person's breath for a preliminary test —

(i) it appears to a police officer that the preliminary test indicates that the person has a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood; or

(ii) it appears to a police officer that the preliminary test indicates that there is alcohol present in the blood of the person and the police officer has

reasonable grounds to believe that the person is a person to whom section 62B(4) or (5) or 64A(1) applies or that the motor vehicle concerned is a motor vehicle to which section 64A(4) applies;

or

(b) a person having been so required, refuses or fails to provide, or appears to a police officer to be incapable of providing a sample of the person's breath for a preliminary test or refuses or fails to provide, or appears to a police officer to be incapable of providing, a sample of the person's breath in sufficient quantity to enable a preliminary test to be carried out; or

(c) a police officer has reasonable grounds to believe that a person has committed an offence against section 63; or

(ca) a police officer —

(i) has reasonable grounds to believe that an offence against section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb) has been committed; and

(ii) does not know, or has doubt as to, who was the driver of the motor vehicle concerned,

but has reasonable grounds to believe that a person may have been the driver of the motor vehicle; or

(cb) a police officer has reasonable grounds to believe that —

(i) an offence against section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb) has been committed by a learner driver; and

(ii) a person may have been an instructor providing driving instruction to that learner driver at the time of that offence;

or

(d) a police officer —

(i) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or

its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe that a person may have been the driver or person in charge of the motor vehicle at that time and that, if the person was, they have committed an offence against section 63; or

(e) a police officer has reasonable grounds to believe that —

(i) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(ii) a learner driver was driving or attempting to drive the motor vehicle at the time of that presence or use; and

(iii) a person may have been an instructor providing driving instruction to the learner driver at that time; and

(iv) at that time, the person would have committed an offence against section 63 if the person had been driving a motor vehicle,

a police officer may require that person to provide a sample of the person's breath for analysis or to allow a prescribed sample taker to take a sample of the person's blood for analysis or to allow a sample of blood to be so taken pursuant to the provisions of subsections (4) and (5), and for the purposes of this subsection may require that person to accompany a police officer to a police station or some other place, and may require that person to wait at any such police station or place.

(3) A person who is required to supply a sample of the person's breath for a preliminary test or for analysis must comply with

that requirement by providing the sample of their breath into approved apparatus in accordance with the directions of a police officer or an authorised person, as the case may be.

(4) A person must not be required under subsection (2) to provide a sample of the person's breath for analysis if it appears to a police officer that —

[(a) deleted]

(b) the sample of breath could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

(c) because of the person's physical condition they are incapable of providing the specimen of breath or a specimen of breath in sufficient quantity for analysis.

(5) Where —

(a) a police officer might require a person to provide a sample of the person's breath for analysis under subsection (2) but is precluded from so doing by subsection (4) or section 68(11); or

(b) a police officer might, by virtue of subsection (1) or (1a), require a person to provide a sample of the person's breath for a preliminary test but it appears to the police officer that the physical condition of the person is such as to render the person incapable of providing a sample of the person's breath in accordance with the directions of the police officer for a preliminary test,

then the police officer may require the person to allow a prescribed sample taker nominated by the police officer to take a sample of the person's blood for analysis or where the person is incapable of complying with that requirement, that police

officer may cause a prescribed sample taker to take a sample of the blood of the person for analysis.

(6) A person must not be required to allow a prescribed sample taker to take a sample of the person's blood, and a prescribed sample taker must not be caused to take a sample of the blood of a person under subsection (5) if it appears to the police officer that the sample cannot be taken within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place.

[(6a) deleted]

(7) Subsection (8B) applies if a police officer has reasonable grounds to believe that —

(a) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of serious bodily harm to, or the death of, a casualty; and

(b) a person may have been the driver or person in charge of the motor vehicle at the time of that presence or use.

(8A) In subsection (7) —

serious bodily harm, in relation to a casualty,, means bodily harm that the police officer has reasonable grounds to believe is likely to require the attendance of the casualty at a hospital (whether or not that is practicable).

(8B) If this subsection applies, a police officer may —

(a) require the person to allow a prescribed sample taker to take a sample of the person's blood for analysis; or

(b) where the person is incapable of complying with that requirement — cause a prescribed sample taker to take a sample of the person's blood for analysis.

(8C) For the purposes of subsection (8B), a police officer may require the person to accompany a police officer to a police

station or some other place, and may require the person to wait at the police station or place.

(8) A police officer must not make a requirement under subsection (8B)(a), or cause a prescribed sample taker to take a sample under subsection (8B)(b), if it appears to the police officer that the sample cannot be taken or provided within 12 hours after the time of the presence or use of the motor vehicle referred to in subsection (7)(a).

[(9) deleted]

(10) Where a person is apparently unconscious or seriously injured a police officer must facilitate the provision of medical assistance for that person.

(11) A police officer may require a person to allow a prescribed sample taker nominated by the police officer to take a sample of the person's blood for analysis, and require the person to accompany a police officer to a place and wait at that place for the purposes of taking the sample, if —

(a) the person provides a sample of their breath for analysis pursuant to a requirement made under subsection (2)(c), (ca), (cb), (d) or (e); and

(b) the analysis result obtained pursuant to section 68 indicates —

(i) that there is no alcohol present in the blood of the person; or

(ii) that the person's blood alcohol content is such that it does not reasonably explain the conduct, condition or appearance of the person by reason of which the requirement was made.

(12) If it appears to a police officer that a blood sample cannot be taken from a person under subsection (11) within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the

requirement under subsection (11) is believed to have taken place —

(a) the person must not be required to allow a prescribed sample taker to take a sample of the person's blood under that subsection; and

(b) a prescribed sample taker must not be caused to take a sample of the blood of a person under that subsection.

[Section 66 amended: No. 71 of 1979 s. 10; No. 81 of 1980 s. 8; No. 105 of 1981 s. 12 and 19; No. 82 of 1982 s. 15; No. 121 of 1987 s. 6; No. 11 of 1988 s. 12; No. 16 of 1988 s. 4; No. 13 of 1992 s. 11; No. 50 of 1997 s. 9; No. 39 of 2000 s. 36; No. 44 of 2004 s. 9; No. 54 of 2006 s. 17(3); No. 6 of 2007 s. 8; No. 39 of 2007 s. 11 and 36; No. 51 of 2010 s. 7; No. 14 of 2011 s. 12; No. 8 of 2012 s. 37; No. 2 of 2015 s. 8; No. 25 of 2016 s. 34, 40 and 47; No. 27 of 2020 s. 15.]

[Section 66. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66A. Drug impairment, police powers to require driver assessment for etc.

(1A) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.

(1) A police officer may require —

(a) the driver or person in charge of a motor vehicle; or

(b) any person the police officer has reasonable grounds to believe was the driver or person in charge of a motor vehicle,

to undergo an assessment of drug impairment if a police officer has reasonable grounds to believe that the person is, or was while driving or attempting to drive the motor vehicle, impaired

by something, other than alcohol alone, affecting the person's capacity to drive a motor vehicle.

(2) Where a police officer —

(a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

but has reasonable grounds to believe —

(c) that the person may have been the driver or person in charge of the motor vehicle at that time; and

(d) that the person was at that time impaired by something, other than alcohol alone, affecting the person's capacity to drive a motor vehicle,

a police officer may require the person to undergo an assessment of drug impairment.

(3) For the purposes of subsection (1) or (2) a police officer may require a person who is required to undergo a driver assessment to wait at the place at which the requirement was made.

(4) Where a person required under subsection (1) or (2) to undergo a driver assessment is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of undergoing the assessment.

(5) A person who is required to undergo a driver assessment shall comply with that requirement by undergoing the assessment in accordance with the directions of a police officer.

(6) A person shall not be required to undergo a driver assessment if it appears to a police officer that —

(a) the driver assessment could not be conducted within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

(b) because of the person's physical condition the person is incapable of undergoing the driver assessment.

(7) A driver assessment shall be conducted by a police officer in accordance with regulations prescribing the procedure for assessing drug impairment.

[Section 66A inserted: No. 6 of 2007 s. 9; amended: No. 8 of 2012 s. 37; No. 25 of 2016 s. 48.]

66B. Police powers to require blood sample for drug analysis

(1) A police officer may require a person to allow a prescribed sample taker nominated by the police officer to take a sample of the person's blood for analysis, and require the person to accompany a police officer to a place and wait at that place for the purposes of taking the sample, if —

(a) the person underwent a driver assessment and it appears to a police officer that the assessment indicates that the person is drug impaired; or

(b) the person refuses or fails to undergo a driver assessment having been required to do so; or

(c) a police officer might require a person to undergo a driver assessment but is precluded from doing so by section 66A(6)(b).

(2) If a person is incapable of complying with a requirement under subsection (1), a police officer may cause a prescribed sample taker to take a sample of the person's blood for analysis.

(3) If a person is apparently unconscious or seriously injured a police officer must facilitate the provision of medical assistance for the person.

(4) If it appears to a police officer that a blood sample cannot be taken from a person under subsection (1) within 4 hours after the time at which driving, attempted driving, use or management of a vehicle in circumstances giving rise to the requirement under subsection (1) is believed to have taken place —

(a) the person must not be required to allow a prescribed sample taker to take a sample of the person's blood under that subsection; and

(b) a prescribed sample taker must not be caused to take a sample of the blood of a person under that subsection.

[Section 66B inserted: No. 27 of 2020 s. 16.]

[Section 66B. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66C. Preliminary oral fluid test, police powers to require etc.

(1) A police officer may require the driver or person in charge of a motor vehicle, or any person he has reasonable grounds to believe was the driver or person in charge of a motor vehicle, to undergo a preliminary oral fluid test.

(2) A police officer may —

(a) call upon the driver of a motor vehicle to stop the vehicle;

(b) direct the driver of a motor vehicle to wait at a place indicated by the police officer,

in order that a requirement may be made under subsection (1).

(3) Where a police officer —

(a) has reasonable grounds to believe that the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and

(b) does not know, or has doubt as to, who was the driver or person in charge of the motor vehicle at the time of that presence or use,

the police officer may require any person who he has reasonable grounds to believe may have been the driver or person in charge of the motor vehicle at that time to undergo a preliminary oral fluid test.

(4) For the purposes of subsection (1) or (3) a police officer may require a person who is required to undergo a preliminary oral fluid test to wait at the place at which the requirement was made.

(5) Where a person required to undergo a preliminary oral fluid test is in a motor vehicle, a police officer may require the person to leave the vehicle for the purpose of undergoing the test.

(6) A person who is required to undergo a preliminary oral fluid test shall comply with that requirement by undergoing the test in accordance with the directions of a police officer.

(7) A preliminary oral fluid test shall be conducted by a police officer in accordance with regulations prescribing the procedure for those tests.

[Section 66C inserted: No. 6 of 2007 s. 9; amended: No. 8 of 2012 s. 37.]

66D. Oral fluid sample, police powers to require etc.

(1) Where —

(a) a person having undergone a preliminary oral fluid test, it appears to a police officer that the test indicates that the person's oral fluid contains a prescribed illicit drug; or

(b) a person refuses or fails to undergo a preliminary oral fluid test having been required to do so,

a police officer may require the person to provide a sample of the person's oral fluid for drug testing, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.

(2) A person who is required under subsection (1) to provide a sample of oral fluid for drug testing shall comply with that requirement by providing the sample in accordance with the directions of an authorised drug tester.

(3) A person shall not be required under subsection (1) to provide a sample of oral fluid for drug testing if it appears to a police officer that —

(a) the sample of oral fluid could not be provided within 4 hours after the time at which driving, attempted driving, use or management of a motor vehicle in circumstances giving rise to the requirement is believed to have taken place; or

(b) because of the person's physical condition the person is incapable of providing the sample of oral fluid.

(4) Where, under subsection (1), a person provides a sample of oral fluid for drug testing, an authorised drug tester shall —

(a) collect the sample in the manner prescribed by the regulations; and

(b) conduct drug testing of the sample by an approved device in accordance with the procedure prescribed by the regulations.

[Section 66D inserted: No. 6 of 2007 s. 9; amended: No. 8 of 2012 s. 37.]

[Section 66D. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66E. Blood sample instead of oral fluid sample, police powers to require etc.

(1) Where a police officer might, under section 66D(1), require a person to provide a sample of oral fluid for drug testing but is precluded from doing so by section 66D(3)(b), a police officer may require the person to allow a prescribed sample taker nominated by the police officer to take a sample of the person's blood for analysis, and for the purposes of this subsection may require the person to accompany a police officer to a place, and may require the person to wait at that place.

(2) Where a person is incapable of complying with a requirement under subsection (1), a police officer may cause a prescribed sample taker to take a sample of the person's blood for analysis.

(3) Where a person is apparently unconscious or seriously injured a police officer shall facilitate the provision of medical assistance for the person.

(4) A person shall not be required to allow a prescribed sample taker to take a sample of the person's blood under subsection (1), and a prescribed sample taker shall not be caused to take a sample of a person's blood under subsection (2), if it appears to the police officer that the sample cannot be taken or provided, as the case may be, within 4 hours after the time at which driving, attempted driving, use or management of a

vehicle in circumstances giving rise to the requirement is believed to have taken place.

[Section 66E inserted: No. 6 of 2007 s. 9; amended: No. 51 of 2010 s. 9; No. 8 of 2012 s. 37; No. 25 of 2016 s. 40.]

[Section 66E. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

66F. Prescribed sample takers authorised to take blood samples

(1) Where under section 66, 66B or 66E a police officer —

(a) requires a person to allow a prescribed sample taker nominated by the police officer to take a sample of the person's blood for analysis; or

(b) causes a prescribed sample taker to take a sample of a person's blood for analysis,

this section authorises the prescribed sample taker to take that sample.

(2) No action lies against a person who is a prescribed sample taker by reason only of the person taking a sample of another person's blood for analysis under section 66, 66B or 66E.

[Section 66F inserted: No. 6 of 2007 s. 9; amended: No. 8 of 2012 s. 37; No. 25 of 2016 s. 40.]

67. Failure to comply with s. 66 requirement to provide sample, allow sample to be taken or to accompany police officer

(1) In this section —

requirement means a requirement made by a police officer to a person under section 66 to do one or more of the following —

(a) provide a sample of the person's breath for analysis;

(b) allow a prescribed sample taker to take a sample of the person's blood for analysis;

(c) accompany a police officer to a police station or some other place, and to wait at that place.

(2) A person, other than a person to whom section 68A(3) applies, commits an offence if the person fails to comply with a requirement.

Penalty for this subsection:

(a) for a first offence, if the person has been previously convicted of an offence against section 64 —

(i) a fine of not less than 48 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period not less than the minimum period of disqualification that would apply if the offence were against section 64 instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(b) for a first offence, if the person has been previously convicted of an offence against section 64B(3), or offences against sections 64 and 64B(3) —

(i) a fine of not less than 72 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period not less than the minimum period of disqualification that would apply if the offence were against section 64B(3) instead of this section and the person's blood alcohol content were above 0.14 g of alcohol per 100 ml of blood;

(c) for a first offence, in any other case —

(i) a fine of not less than 41 PU or more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 15 months;

(d) for a second offence —

(i) a fine of not less than 95 PU or more than 158 PU or imprisonment for 9 months; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 42 months;

(e) for a subsequent offence —

(i) a fine of not less than 95 PU or more than 225 PU or imprisonment for 18 months; and

(ii) the court convicting the person must, in any event, order that the person be permanently disqualified from holding or obtaining a driver's licence.

(2A) For the purposes of subsection (2), a previous conviction for an offence against subsection (3) or section 63 or 67AD(6) is taken to be a previous offence against subsection (2).

(3) A person, other than a person to whom section 68A(3) applies, commits a crime if —

(a) a police officer makes a requirement of the person; and

(b) when the police officer makes the requirement of the person, the police officer —

(i) advises the person concerned that the police officer believes that the motor vehicle of which the person was, or is believed to have been, the

driver has been involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person; and

(ii) explains to the person the consequences under this subsection of failing to comply with the requirement;

and

(c) the person fails to comply with the requirement.

Penalty for this subsection:

(a) imprisonment for 14 years; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years.

Summary conviction penalty for this subsection in a case in which the incident does not occasion the death of another person:

(a) imprisonment for 18 months or a fine of 160 PU; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 18 months.

(3A) A person who commits an offence against subsection (2) or (3) may be arrested without warrant.

(3B) A person charged with an offence against subsection (3) may, instead of being convicted of that offence, be convicted of an offence against subsection (2).

[(4) deleted]

(5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than

a desire to avoid providing information that might be used as evidence.

[(6) deleted]

[Section 67 inserted: No. 82 of 1982 s. 16; amended: No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 50 of 2003 s. 92(2); No. 44 of 2004 s. 10; No. 84 of 2004 s. 82; No. 54 of 2006 s. 18; No. 39 of 2007 s. 18; No. 51 of 2010 s. 10; No. 14 of 2011 s. 13; No. 58 of 2011 s. 7; No. 8 of 2012 s. 37; No. 25 of 2016 s. 10, 40 and 49; No. 27 of 2020 s. 17.]

67AA. Failure to comply with s. 66A or 66B requirement to do driver assessment, provide blood sample or accompany police officer

(1) A person commits an offence if the person fails to comply with a requirement —

(a) to undergo a driver assessment; or

(b) to allow a prescribed sample taker to take a sample of the person's blood for analysis under section 66B(1); or

(c) to accompany a police officer to a place and to wait at that place under section 66B(1).

Penalty for this subsection:

(a) for a first offence —

(i) a fine of not less than 34 PU or more than 75 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months;

(b) for a second offence —

(i) a fine of not less than 63 PU or more than 105 PU or imprisonment for 9 months; and

(ii) the court convicting the person must, in any event, order that the person be disqualified

from holding or obtaining a driver's licence for a period of not less than 30 months;

(c) for a subsequent offence —

(i) a fine of not less than 63 PU or more than 150 PU or imprisonment for 18 months; and

(ii) the court convicting the person must, in any event, order that the person be permanently disqualified from holding or obtaining a driver's licence.

(2) A person who commits an offence against subsection (1) may be arrested without warrant.

[(3) deleted]

(4) For the purposes of subsection (1), where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64AB, 67 or 67AD(6) must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second, third or subsequent offence.

(5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

(6) Without limiting the generality of subsection (5) it is a defence to a prosecution for failing to comply with a requirement mentioned in subsection (2)(c) if the accused satisfies the court that the accused attempted to comply with the requirement.

[Section 67AA inserted: No. 6 of 2007 s. 10; amended: No. 14 of 2011 s. 14; No. 8 of 2012 s. 37; No. 25 of 2016 s. 40; No. 27 of 2020 s. 18.]

67AB. Failure to comply with s. 66D or 66E requirement to provide oral fluid, blood sample or accompany police officer

(1) A person, other than a person to whom section 68A(3) applies, commits an offence if the person fails to comply with a requirement made by a police officer —

(a) to provide a sample of oral fluid under section 66D; or

(b) to allow a sample of blood to be taken under section 66E; or

(c) to accompany a police officer to a place and to wait at that place under section 66D or 66E.

Penalty for this subsection:

(a) for a first offence, a fine of not more than 25 PU;

(b) for a second or subsequent offence —

(i) a fine of not less than 25 PU or more than 40 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

(2) A person who commits an offence against subsection (1) may be arrested without warrant.

[(3) deleted]

(4) For the purposes of subsection (1), where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64AB, 64AC, 64B, 64C, 67, 67AA, 67AC or 67AD must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first, second or subsequent offence.

(5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

[Section 67AB inserted: No. 6 of 2007 s. 10; amended: No. 14 of 2011 s. 15; No. 8 of 2012 s. 37; No. 25 of 2016 s. 40 and 50; No. 27 of 2020 s. 19.]

67AC. Failure to comply with drug test requirement for certain persons with any blood alcohol content

(1) In this section —

requirement means a requirement made by a police officer to a person to do one or more of the following —

(a) allow a sample of blood to be taken under section 66B or 66E;

(b) provide a sample of oral fluid under section 66D;

(c) accompany the police officer to a place and to wait at that place under section 66B, 66D or 66E.

(2) A person commits an offence if —

(a) the person has provided a sample of their breath for analysis under section 66(2) and it appears to a police officer based on the analysis of the samples that the person has any blood alcohol content; and

(b) either —

(i) section 64A(1) applies to the person; or

(ii) the person is driving or attempting to drive a vehicle to which section 64A(4) applies;

and

(c) the police officer makes a requirement of the person; and

(d) the person fails to comply with the requirement.

Penalty for this subsection:

(a) for a first offence —

(i) a fine of not less than 12 PU or more than 38 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;

(b) for a second or subsequent offence —

(i) a fine of not less than 38 PU or more than 60 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 9 months.

(3) For the purposes of subsection (2), a previous conviction for an offence against subsection (4) or section 63, 64, 64AA, 64AB, 64B, 67, 67AA, 67AB or 67AD is taken to be a previous offence against subsection (2).

(4) A person commits an offence if —

(a) the person has provided a sample of their breath for analysis under section 66(2) and it appears to a police officer that the person has a blood alcohol content of or above 0.02 g of alcohol per 100 ml of blood; and

(b) either —

(i) section 64A(1) applies to the person; or

(ii) the person is driving or attempting to drive a vehicle to which section 64A(4) applies;

and

(c) the police officer makes a requirement of the person; and

(d) the person fails to comply with the requirement.

Penalty for this subsection:

(a) for a first offence —

(i) a fine of not less than 12 PU or more than 38 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;

(b) for a second or subsequent offence —

(i) a fine of not less than 38 PU or more than 60 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 10 months.

(5) For the purposes of subsection (4), a previous conviction for an offence against section 63, 64, 64AA, 64AB, 64B, 67, 67AA, 67AB or 67AD is taken to be a previous offence against subsection (4).

[Section 67AC inserted: No. 27 of 2020 s. 20.]

67AD. Failure to comply with drug test requirement for persons with blood alcohol content of or above 0.05

(1) In this section —

requirement means a requirement made by a police officer to a person to do one or more of the following —

(a) allow a sample of blood to be taken under section 66B or 66E;

(b) provide a sample of oral fluid under section 66D;

(c) accompany the police officer to a place and to wait at that place under section 66B, 66D or 66E.

(2) A person commits an offence if —

(a) the person has provided a sample of their breath for analysis under section 66(2) and it appears to a police officer based on the analysis of the samples that the person has a blood alcohol content that is of or above 0.05 g of alcohol per 100 mL of blood; and

(b) the police officer makes a requirement of the person; and

(c) the person fails to comply with the requirement.

Penalty for this subsection:

(a) a fine of not less than the minimum fine or more than the maximum fine in the Table; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the minimum period of disqualification in the Table.

Table

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.05 but < 0.07	Min: Max: Disq:	None 38 PU 3 months	38 PU 60 PU 9 months	38 PU 60 PU 12 months
≥ 0.07	Min: Max: Disq:	None 38 PU 3 months	38 PU 60 PU 12 months	38 PU 60 PU 15 months

Note: ≥ signifies of or above

< signifies less than

Disq signifies the minimum period of disqualification

Max signifies the maximum fine

Min signifies the minimum fine

(3) For the purposes of subsection (2), a previous conviction for an offence against subsection (4) or (6) or section 63, 64AB, 64B, 67 or 67AA is taken to be a previous offence against subsection (2).

(4) A person commits an offence if —

(a) the person has provided a sample of their breath for analysis under section 66(2) and it appears to a police officer that the person has a blood alcohol content that is of or above 0.08 g of alcohol per 100 mL of blood; and

(b) the police officer makes a requirement of the person; and

(c) the person fails to comply with the requirement.

Penalty for this subsection:

(a) a fine of not less than the minimum fine or more than the maximum fine in the Table; and

(b) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for not less than the minimum period of disqualification in the Table.

Table

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.08 but < 0.09	Min: Max: Disq:	23 PU 68 PU 9 months	48 PU 68 PU 12 months	48 PU 68 PU 15 months
≥ 0.09 but < 0.11	Min: Max: Disq:	26 PU 68 PU 11 months	51 PU 68 PU 15 months	51 PU 68 PU 20 months
≥ 0.11 but < 0.13	Min: Max: Disq:	30 PU 68 PU 12 months	54 PU 90 PU 21 months	54 PU 90 PU 26 months

Blood alcohol content (g/100 ml)		**First offence**	**Second offence**	**Subsequent offence**
≥ 0.13	Min: Max: Disq:	35 PU 68 PU 14 months	72 PU 113 PU 27 months	72 PU 135 PU 42 months

Note: ≥ signifies of or above
< signifies less than
Disq signifies the minimum period of disqualification
Max signifies the maximum fine
Min signifies the minimum fine

(5) For the purposes of subsection (4), a previous conviction for an offence against subsection (6) or section 63, 64AB, 64B(3), 67 or 67AA is taken to be a previous offence against subsection (4).

(6) A person commits an offence if —

(a) the person has provided a sample of their breath for analysis under section 66(2) and it appears to a police officer that the person has a blood alcohol content of or above 0.15 g of alcohol per 100 ml of blood; and

(b) the police officer makes a requirement of the person; and

(c) the person fails to comply with the requirement.

Penalty for this subsection:

(a) for a first offence, if the person has been previously convicted of an offence against section 64 —

(i) a fine of not less than 48 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if

the offence were against section 64 instead of this section;

(b) for a first offence, if the person has been previously convicted of an offence against section 64B(3), or offences against sections 64 and 64B(3) —

(i) a fine of not less than 72 PU and not more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than the minimum period of disqualification that would apply if the offence were against section 64B(3) instead of this section;

(c) for a first offence, in any other case —

(i) a fine of not less than 41 PU or more than 113 PU; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 15 months;

(d) for a second offence —

(i) a fine of not less than 95 PU or more than 158 PU or imprisonment for 9 months; and

(ii) the court convicting the person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 42 months;

(e) for a subsequent offence —

(i) a fine of not less than 95 PU or more than 225 PU or imprisonment for 18 months; and

(ii) the court convicting the person must, in any event, order that the person be permanently

disqualified from holding or obtaining a driver's licence.

(7) For the purposes of subsection (6), a previous conviction for an offence against section 63, 64AB, 67 or 67AA is taken to be a previous offence against subsection (6).

[Section 67AD inserted: No. 27 of 2020 s. 20.]

67AE. Provisions for s. 67AC and 67AD

(1) A person who commits an offence against section 67AC or 67AD may be arrested without warrant.

(2) A person charged with an offence against section 67AC or 67AD may, instead of being convicted of that offence, be convicted of —

(a) an offence against section 67, 67AA or 67AB; or

(b) another offence against section 67AC or 67AD.

(3) It is a defence to a prosecution for an offence against section 67AC or 67AD if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

(4) For the purposes of sections 67AC and 67AD, an offence is a second or subsequent offence against those sections irrespective of the blood alcohol content on the occasion of the commission of any previous offence against those sections.

[Section 67AE inserted: No. 27 of 2020 s. 20.]

67A. Failure to comply with other requirements of police officer

(1) Subject to subsection (2), a person, other than a person to whom section 68A(3) applies, who fails to comply with any requirement of a police officer made pursuant to any of sections 66 to 66E, other than a requirement mentioned in

section 66(1aa), 66C(2), 67(1), 67AA(1), 67AB(1), 67AC or 67AD, commits an offence.

(2) This section does not apply to a prescribed sample taker by reason of their failing to co-operate in the taking of a sample of a person's blood for analysis.

(3) A person convicted of an offence against this section is liable —

(a) for a first offence, to a fine of not less than 9 PU or more than 24 PU; and the court convicting that person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;

(b) for any subsequent offence, to a fine of not less than 18 PU or more than 42 PU; and the court convicting that person must, in any event, order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

(4) For the purposes of subsection (3), where a person is convicted of an offence against this section any offence previously committed by the person against section 63, 64, 64AB, 64AC, 64B(3), 67, 67AA, 67AB or 67AD(4) or (6) must be taken into account and be deemed to have been an offence against this section (but not to the exclusion of any other previous offence against this section) in determining whether that first-mentioned offence is a first or subsequent offence.

(5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

(6) Where a person is prosecuted for an offence against this section of failing to comply with a requirement to provide a sample of their breath for a preliminary test it is a defence to the prosecution if the accused satisfies the court that they complied,

in accordance with section 66, with a requirement mentioned in paragraph (a) or (b) of the definition of ***requirement*** in section 67(1) that arose out of —

(a) the accused's failure to comply with the first-mentioned requirement; or

(b) the circumstances that gave rise to the first-mentioned requirement.

[Section 67A inserted: No. 82 of 1982 s. 16; amended: No. 121 of 1987 s. 7; No. 11 of 1988 s. 24; No. 50 of 1997 s. 13; No. 39 of 2000 s. 36; No. 84 of 2004 s. 82; No. 54 of 2006 s. 19; No. 6 of 2007 s. 11; No. 8 of 2012 s. 37; No. 25 of 2016 s. 40 and 51; No. 27 of 2020 s. 21.]

68A. Failure to comply with s. 66, 66C, 66D or 66E requirement: instructors

(1) In this section —

requirement means a requirement of a police officer made under section 66, 66C, 66D or 66E.

(2) Subsection (3) applies to a person of whom a requirement was made on the basis that the person was, or that there were reasonable grounds to believe that the person was, an instructor providing driving instruction to a learner driver.

(3) A person to whom this subsection applies who fails to comply with a requirement commits an offence.

(4) A person convicted of an offence against this section is liable to a fine of 50 PU.

(5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.

[(6) deleted]

(7) Without limiting the generality of subsection (5), it is a defence to a prosecution for failing to comply with a requirement to provide a sample of breath for a preliminary test if the accused satisfies the court that the accused complied with a requirement under section 66, to provide a sample of breath for analysis or to allow a sample of blood to be taken for analysis, that arose out of —

(a) the accused's failure to comply with the requirement to provide a sample of breath for a preliminary test; or

(b) the circumstances that gave rise to the requirement to provide a sample of breath for a preliminary test.

[Section 68A inserted: No. 25 of 2016 s. 52; amended: No. 27 of 2020 s. 22.]

68. Analysis of breath sample

(1) Where, pursuant to section 66, a person provides a sample of the person's breath for analysis the analysis must be made by breath analysing equipment.

[(1a)-(5) deleted]

(6) The breath analysing equipment must be operated by an authorised person and must be operated in accordance with the regulations relating to analysis by breath analysing equipment of the relevant type.

(7) Subject to subsection (11), if the breath analysing equipment does not indicate a result in the prescribed manner at the conclusion of the analysis, a police officer may again require the person to provide a sample of the person's breath for analysis or to allow a prescribed sample taker to take a sample of the person's blood for analysis under section 66(2).

(8) If the breath analysing equipment indicates a result in the prescribed manner at the conclusion of the analysis, the result so indicated is the analysis result and the person's blood alcohol content given by or derived under section 65A from the analysis

result is deemed to be the person's blood alcohol content at the time the sample of breath was provided.

(9) Subject to subsection (10), the authorised person must complete, sign, and hand to the person a statement in writing of the analysis result and of the date and time of the analysis.

(10) If the manner of indication of a result prescribed for the purposes of subsections (7) and (8) is the printing of a statement by the breath analysing equipment, the authorised person may comply with the requirements of subsection (9) by signing and dating the statement so printed and handing it to the person.

(11) If the person has provided 2 samples of the person's breath for analysis under section 66(2) and the analysis of each sample has failed, the person must not be required to provide another sample of the person's breath for analysis under section 66(2).

(12) For the purposes of subsection (11), an analysis of a sample of breath will be regarded as having failed only if the analysis is made by breath analysing equipment and the breath analysing equipment does not indicate a result in the prescribed manner.

[Section 68 amended: No. 121 of 1987 s. 8; No. 39 of 2000 s. 36; No. 39 of 2007 s. 12; No. 8 of 2012 s. 37; No. 25 of 2016 s. 40; No. 27 of 2020 s. 23.]

69. Taking and analysis of blood sample

(1) Where, pursuant to the provisions of section 66, 66B or 66E, a prescribed sample taker takes a sample of a person's blood for analysis the sample must be taken in accordance with the regulations, or otherwise in a proper manner, and must be divided into 2 parts, each of which is deemed to be a sample of the person's blood for the purposes of this Act.

(1a) If, instead of a sample of a person's blood being taken and divided into 2 parts, 2 samples of the person's blood are taken

one immediately after the other, and in a manner prescribed in the regulations or otherwise in a proper manner —

(a) the taking of those 2 samples is to be regarded as the taking of a single sample at the time at which the first of the 2 samples began to be taken; and

(b) each of the 2 samples taken is to be regarded as a part into which the single sample has been divided.

(2A) The prescribed sample taker must ensure that both samples are delivered to a police officer.

(2B) One of the samples must be delivered, on behalf of the person from whom the samples were taken, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

(2) Where a sample of blood is analysed for alcohol by an analyst in accordance with the regulations the blood alcohol content of the sample is the analysis result and is deemed to be the person's blood alcohol content at the time the sample of blood was taken.

[Section 69 amended: No. 105 of 1981 s. 19; No. 39 of 2000 s. 36; No. 54 of 2006 s. 20; No. 6 of 2007 s. 12; No. 39 of 2007 s. 13; No. 8 of 2012 s. 37; No. 25 of 2016 s. 35 and 40; No. 27 of 2020 s. 24.]

*[**69A.** Deleted: No. 27 of 2020 s. 25.]*

69B. Taking of oral fluid sample

(1) If the drug testing of a sample of a person's oral fluid under section 66D(4)(b) indicates, in the opinion of the authorised drug tester who conducted the drug testing, that the person's oral fluid contains a prescribed illicit drug, the sample must be divided into 2 parts, each of which must be deemed to be a sample of the person's oral fluid for the purposes of this Act.

(2) The authorised drug tester must ensure that both samples are delivered to a police officer.

(3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

(4) Subject to subsection (5), if the approved device does not indicate a result in the prescribed manner at the conclusion of the analysis, a police officer may again require the person to provide a sample of oral fluid for drug testing under section 66D(1).

(5) If the person has provided 2 samples of oral fluid for analysis under section 66D(1) and the analysis of each sample has failed, the person must not be required to provide another sample of oral fluid for analysis under section 66D(1).

(6) For the purposes of subsection (5) an analysis of a sample of oral fluid will be regarded as having failed only if the analysis is made by an approved device and —

(a) the device is determined not to be in proper working order; or

(b) the device does not indicate a positive or negative result.

[Section 69B inserted: No. 6 of 2007 s. 14; amended: No. 8 of 2012 s. 37; No. 25 of 2016 s. 37; No. 27 of 2020 s. 26.]

70A. Delivery of person's blood or oral fluid sample to Chemistry Centre (WA)

(1) A sample of blood or oral fluid delivered to the Chemistry Centre (WA) on behalf of a person under section 69(2B) or 69B(3) must be retained, and appropriately stored, by the Chemistry Centre (WA) until the person requests the sample.

(2) The person may, within 3 months after the day on which the sample was delivered to the Chemistry Centre (WA), request that the sample be delivered to an analyst (as defined in the

Misuse of Drugs Act 1981 section 3(1)) nominated by the person, for analysis.

(3) The cost of delivering the sample is to be paid for by the person.

(4) Despite subsection (1), the Chemistry Centre (WA) need not store the sample for more than 3 months.

[Section 70A inserted: No. 25 of 2016 s. 38; No. 27 of 2020 s. 27.]

70B. Evidence of delivery of blood or oral fluid samples

(1) In proceedings for an offence against section 62B, 62C, 63, 64, 64AA, 64A, 64AAA, 64AB, 64AC, 64B or 64C, evidence of the delivery of a sample to an analyst or drug analyst may be given in the form of a certificate in which a person who took delivery of the sample sets out the prescribed particulars of the delivery of the sample to the person together with their signature.

(2) In the absence of evidence to the contrary —

(a) it is to be presumed that each signature on the certificate is the signature of the person of whom it purports to be the signature; and

(b) the certificate is evidence of its contents.

(3) Except with the consent of the accused, evidence of the delivery of a sample to a person in the form of a certificate cannot be given in the proceedings and, if it is given, is not admissible, unless a copy of the certificate is given to the accused at least 28 days before the proceedings.

(4) If a copy of the certificate has been given as required by subsection (3), the accused cannot challenge or call into question a matter set out in the certificate unless —

(a) notice in writing of the accused's intention is given to the prosecutor at least 14 days before the proceedings; or

(b) the court, in the interests of justice, gives the accused leave to so do.

(5) A notice under subsection (4)(a) must specify the matter that is to be challenged or called into question.

[Section 70B inserted: No. 25 of 2016 s. 38; amended: No. 25 of 2016 s. 53; No. 27 of 2020 s. 28.]

70. Evidentiary provisions

(1) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section 62B, 64, 64AA, 64A, 64AAA, 64B or 64C, or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which the person was, under the influence of alcohol at any material time is relevant, evidence may be given of —

(a) the provision of a sample of breath by the person for analysis, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and

(b) the analysis of the sample of breath by breath analysing equipment operated by an authorised person; and

[(c) deleted]

(ca) the manner in which breath analysing equipment indicated the result of an analysis; and

(d) the taking of a sample of blood from the person by a prescribed sample taker, if taken within 4 hours, or 12 hours if the sample was taken under section 66(8B), after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and

(e) the analysis of the sample of blood for alcohol by an analyst; and

(f) the analysis result obtained pursuant to section 68 or 69.

(2) In any proceeding such as is mentioned in subsection (1), a certificate in the prescribed form —

(a) purporting to be signed by the Commissioner of Police, certifying that a person therein named is, or was at the material time, an authorised person; or

(b) purporting to be signed by the chief executive officer of the Chemistry Centre (WA), certifying that a person therein named is, or was at the material time, an analyst; or

[(ba) deleted]

(bb) purporting to be signed by an authorised person —

(i) certifying that a person therein named provided a sample of breath for analysis on a date and at a time stated therein; and

(ii) certifying that the sample of breath so provided was analysed by apparatus operated by the authorised person and that apparatus was breath analysing equipment within the meaning of section 65; and

(iii) certifying that the breath analysing equipment was operated by the authorised person in the prescribed manner and that the regulations relating to analysis by breath analysing equipment of the relevant type were complied with; and

(iv) certifying that the breath analysing equipment indicated a result in the prescribed manner at the conclusion of the analysis; and

(v) setting out the analysis result obtained from the analysis; and

(vi) certifying that in accordance with section 68(9) the authorised person completed, signed, and handed to the person by whom the sample of breath was provided, a statement as required by

that subsection, or that the authorised person complied with the requirements of that subsection by signing, dating, and handing to the person, a statement printed by the breath analysing equipment; and

(vii) certifying that the authorised person was at the material time an authorised person;

or

(c) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by the technologist and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or

(d) purporting to be signed by a prescribed sample taker, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or

(e) purporting to be signed by an analyst, certifying either or both of the following, namely, that an identified sample of blood taken from a named person was analysed for alcohol in accordance with the regulations, and the analysis result obtained from the analysis,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner of Police, the chief executive officer of the Chemistry Centre (WA), an authorised person, a technologist, a prescribed sample taker or an analyst (as is relevant).

[(2a) deleted]

(3) In any proceeding for an offence against a provision mentioned in subsection (1), evidence by an authorised person of any of the following is prima facie evidence of that fact —

(a) the apparatus operated by the authorised person pursuant to section 68 was breath analysing equipment;

(b) breath analysing equipment was operated by the authorised person in the prescribed manner and the regulations relating to analysis by breath analysing equipment of the relevant type were complied with;

(c) breath analysing equipment indicated a result in the prescribed manner on the occasion of its operation.

(3a) Without affecting the admissibility of any other evidence that may then be given, in any proceeding for an offence against section 62C, 64AC, 64B or 64C, or for an offence against this or any other Act in which the question whether a person was or was not, or the extent to which the person was, under the influence of or impaired by drugs at any material time is relevant, evidence may be given of —

(a) the taking of a sample of blood from the person by a prescribed sample taker, if taken within 4 hours, or 12 hours if the sample was taken under section 66(8B), after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and

[(b) deleted]

(c) the analysis of a sample of blood for drugs by a drugs analyst and the result obtained from the analysis; and

(d) the conduct, condition or appearance of the person at or after the time of the driving or attempted driving of a motor vehicle that gave rise to the alleged offence or during a driver assessment; and

(e) conduct, a condition or an appearance associated with a person who has consumed or used a particular drug or particular drugs; and

(f) the usual effect that conduct or a condition associated with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; and

(g) the provision of a sample of oral fluid by the person under section 66D, if provided within 4 hours after the driving, attempted driving, use or management of a motor vehicle that gave rise to the alleged offence; and

(h) the analysis for drugs by a drugs analyst of a sample of oral fluid provided under section 66D, and the result obtained from the analysis.

(3b) In any proceedings such as is mentioned in subsection (3a), a certificate in the prescribed form —

(a) purporting to be signed by the chief executive officer of the Chemistry Centre (WA) certifying that a person named therein is, or was at the material time, a drugs analyst; or

(b) purporting to be signed by a technologist of a body approved by the Minister, certifying that identified sampling equipment comprises the prescribed items, that those items have been prepared by the technologist and are sterile and fit for the purpose of taking a sample of blood for analysis if used not later than a specified date; or

[(c) deleted]

(d) purporting to be signed by a prescribed sample taker, certifying that an identified sample of blood was taken from a named person, on a date and at a time therein specified, in accordance with the regulations using identified sampling equipment, which was received in a described condition from an identified person; or

[(e) deleted]

(f) purporting to be signed by a drugs analyst certifying either or both of the following —

(i) that an identified sample of blood or oral fluid taken from or provided by a named person was analysed for drugs;

(ii) the analysis result obtained from the analysis;

or

(g) purporting to be signed by an approved expert describing conduct, a condition or an appearance associated with a person who has consumed or used a drug or drugs specified in the certificate; or

(h) purporting to be signed by an approved expert setting out the usual effect that conduct or a condition associated with a person who has consumed or used a particular drug or particular drugs has on a person's capacity to have proper control of a motor vehicle; or

(i) purporting to be signed by a police officer describing the conduct, condition or appearance of a person at or after the time the person drove or attempted to drive a motor vehicle; or

(j) purporting to be signed by a police officer certifying the following —

(i) that the police officer conducted a driver assessment on a person named in the certificate on a date and at a time stated in the certificate;

(ii) that the assessment was conducted in accordance with the regulations,

and describing the conduct, condition or appearance of the person during the assessment; or

(k) purporting to be signed by an authorised drug tester certifying that, under section 66D, an identified sample of oral fluid was collected by the authorised drug tester in accordance with the regulations from a named person

on a date and at a time specified in the certificate using identified sampling equipment which was received in a described condition from an identified person,

is prima facie evidence of the matters therein certified or set out, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was such chief executive officer, or was such a technologist, or was a prescribed sample taker, drug analyst, approved expert, police officer or authorised drug tester.

(3c) In any proceeding for an offence against section 67 in relation to a requirement to provide a sample of the person's breath for analysis under section 66, 67AC, 67AD or 68A a certificate in the prescribed form purporting to be signed by the Commissioner of Police, certifying that a person therein named is, or was at the material time, an authorised person is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner of Police.

(3d) In any proceeding for an offence against section 67AC, 67AD, 67A(1) or 68A of failing to comply with a requirement made pursuant to section 66D(1) a certificate in the prescribed form purporting to be signed by the Commissioner of Police certifying that a person therein named is, or was at the material time, an authorised drug tester is prima facie evidence of the matters therein certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner of Police.

(4) Nothing in this section is to be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act.

(5) Except at the instance, or with the consent, of the accused in any proceeding such as is mentioned in subsection (3a), a certificate mentioned in subsection (3b)(f), (g) or (h) must not be adduced, and if adduced must not be admitted, in that proceeding unless a copy of the certificate is proved to have been served on the accused at least 28 days before the day on which the certificate is adduced.

(5a) If subsection (5) has been complied with in relation to a certificate, the accused must not challenge or call into question any matter certified or set out in the certificate unless —

(a) notice of the accused's intention to do so is proved to have been served on the prosecutor at least 14 days before the day on which the certificate is adduced; or

(b) the court, in the interests of justice, gives the accused leave to do so.

(5b) A notice under subsection (5a)(a) must specify the matter that is to be challenged or called into question.

(5c) Except at the instance, or with the consent, of that person, evidence that a person underwent a preliminary oral fluid test and of any indication provided by such a test must not be adduced, and if adduced must not be admitted, in any proceedings other than proceedings for an offence against section 67AB, 67AC, 67AD, 67A, 68A or 71BA.

(5d) Except as provided by subsection (3a) or (3b) or at the instance, or with the consent, of that person, evidence that a person provided a sample of the person's oral fluid for drug testing must not be adduced, and if adduced must not be admitted, in any proceedings other than proceedings for an offence against section 67AB, 67AC, 67AD, 67A, 68A or 71BA.

(5e) Except at the instance, or with the consent, of that person, evidence of the result of the drug testing of a sample of a person's oral fluid by an approved device, must not be adduced, and if adduced must not be admitted, in any proceedings other

than proceedings for an offence against section 67AB, 67AC, 67AD, 67A, 68A or 71BA.

(6) Except at the instance, or with the consent, of that person, evidence that a person provided a sample of the person's breath for a preliminary test and of any indication provided by such a test must not be adduced, and if adduced must not be admitted, in any proceedings other than proceedings for unlawful arrest or for an offence against section 64AB, 67, 67AA, 67AC, 67AD, 67A or 68A.

(7) In this section —

approved expert means a qualified clinical pharmacologist approved by the Minister for the purpose of this section by notice published in the *Gazette*;

technologist means —

(a) a person registered as an analyst under section 203 of the *Health (Miscellaneous Provisions) Act 1911*; or

(b) a person approved, or belonging to a class of persons approved, by the Minister to prepare sampling equipment.

[Section 70 amended: No. 71 of 1979 s. 12; No. 82 of 1982 s. 18; No. 121 of 1987 s. 9; No. 11 of 1988 s. 13; No. 19 of 1990 s. 8; No. 13 of 1992 s. 12; No. 39 of 2000 s. 35 and 36; No. 6 of 2007 s. 15; No. 10 of 2007 s. 43; No. 39 of 2007 s. 37; No. 8 of 2012 s. 37 and 38; No. 19 of 2016 s. 101; No. 25 of 2016 s. 11, 39, 40 and 54; No. 27 of 2020 s. 29.]

71. Evidence of blood alcohol content for particular offences

(1) In any proceeding for an offence against section 62B the instructor is, in the absence of proof to the contrary, taken to have a particular blood alcohol content at the time of the driving

instruction if it is proved that the instructor had the blood alcohol content —

(a) in the case where the sample was taken under section 66(8B), at any time within 12 hours after the time that the instructor was providing the instruction; or

(b) in any other case, at any time within 4 hours after the time that the instructor was providing the instruction.

(2) In any proceeding for an offence against section 63, 64, 64AA, 64A, 64AAA, 64B, 64C, 67AC or 67AD the person charged is, in the absence of proof to the contrary, taken to have a particular blood alcohol content at the time of the driving or attempted driving if it is proved that the person had the blood alcohol content —

(a) in the case where the sample was taken under section 66(8B), at any time within 12 hours after the driving or attempted driving; or

(b) in any other case, at any time within 4 hours after the driving or attempted driving.

[Section 71 inserted: No. 20 of 2019 s. 4; amended: No. 27 of 2020 s. 30.]

71A. Samples not to be used to obtain DNA

(1) In this section —

sample means a sample of blood or oral fluid taken from or provided by a person (the ***subject***) and given to a police officer under section 69 or 69B.

(2) A person must not use a sample to obtain the subject's DNA.

Penalty for this subsection: imprisonment for 12 months.

[Section 71A inserted: No. 6 of 2007 s. 16; amended: No. 8 of 2012 s. 37; No. 27 of 2020 s. 31.]

71B. Police powers for preventing use of vehicle by alleged offender

(1) If a police officer has reason to suspect that a person (the ***offender***) is driving, is attempting to drive, has driven or has attempted to drive a motor vehicle in contravention of section 63, 64, 64AA, 64A, 64AAA, 64AB, 64AC, 64B or 64C, the police officer may require the offender to immediately hand over all keys to any motor vehicle that are there and then in the offender's possession —

(a) to the police officer; or

(b) to another person who is in the company of the offender if the police officer is satisfied that the person —

(i) is authorised to drive the vehicle on a road; and

(ii) is responsible and is able to drive the vehicle properly.

(2) A police officer may make a requirement under subsection (1) if satisfied that the requirement is necessary in the circumstances and is in the interest of the offender, or of any other person or of the public, and may do so whether or not the offender has been or is to be charged with an offence.

(3) If keys to a motor vehicle are handed over under subsection (1)(a), a police officer may take any steps that, in the opinion of the police officer, are appropriate and practicable in order to ensure that the vehicle is not causing any obstruction to traffic and is secure.

(4) Those steps may include moving the vehicle to a more suitable place.

(5) If a person requests a police officer to hand over to the person keys to a motor vehicle that have been handed over under

subsection (1)(a), the police officer is to comply with the request if satisfied that the person —

(a) is entitled to lawful possession of the vehicle or is in the company of a person who is entitled to lawful possession of the vehicle; and

(b) is authorised to drive the vehicle on a road; and

(c) is responsible and able to drive the vehicle properly.

(6) Before keys to a motor vehicle are handed over to a person under subsection (1)(b) or (5) a police officer may, for the purposes of subsection (1)(b)(ii) or (5)(c), require the person to provide a sample of the person's breath for a preliminary test in accordance with the directions of the police officer.

(7) If keys to a motor vehicle are not handed over within 24 hours after a request is made under subsection (5), the offender may apply to the Magistrates Court, in accordance with its rules of court, for an order for the keys to be handed over to a person named in the application.

(8) A person who —

(a) contravenes any requirement made by a police officer under subsection (1); or

(b) attempts in any manner to obstruct a police officer in the exercise of any power conferred on the police officer under subsection (1), (3) or (4),

commits an offence.

Penalty for this subsection: a fine of 12 PU.

[Section 71B inserted: No. 6 of 2007 s. 16; amended: No. 39 of 2007 s. 38 (correction to reprint: Gazette 19 Oct 2010 p. 5202); No. 8 of 2012 s. 37; No. 27 of 2020 s. 32.]

71BA. Police officer may prohibit person from driving for 24 hours if prescribed illicit drug present in oral fluid

(1) A police officer may personally give a person a notice (a ***prohibition notice***) prohibiting the person from driving a motor vehicle for 24 hours if, when the notice is given —

(a) the person has provided a sample of oral fluid that has been tested under section 66D(4)(b) and it appears to the authorised drug tester conducting the test that the test indicates that a prescribed illicit drug is present in the person's oral fluid; or

(b) each of the following apply —

(i) the person has undergone a preliminary oral fluid test and it appears to a police officer that the test indicates that the person's oral fluid contains a prescribed illicit drug;

(ii) the police officer is precluded from requiring the person to provide a sample of oral fluid by section 66D(3)(b);

(iii) the police officer requires the person to allow a prescribed sample taker to take the person's blood for analysis under section 66E;

or

(c) each of the following apply —

(i) the person has undergone a preliminary oral fluid test and it appears to a police officer that the test indicates that the person's oral fluid contains a prescribed illicit drug;

(ii) the person is not required to provide another sample of oral fluid for analysis under section 69B(5);

or

(d) the person refuses or fails to undergo a test having been required to do so under section 66C, 66D or 66E.

(2) The prohibition notice must —

(a) specify the grounds on which the notice is given, including when and where subsection (1) applies to the person; and

(b) contain a statement to the effect that because the person has been given the notice, the person must not drive a motor vehicle for a period commencing on receipt of the notice and ending 24 hours after receipt of the notice; and

(c) specify when the person receives the prohibition notice and when the 24-hour period ends.

(3) A person who has been given a prohibition notice under this section must not contravene the notice.

Penalty for this subsection:

(a) for a first offence, a fine of 25 PU;

(b) for a second or subsequent offence, a fine of 40 PU.

[Section 71BA inserted: No. 27 of 2020 s. 33.]

71C. Disqualification by police officer

(1) This section applies if —

(a) a police officer (the ***police officer***), as a result of an analysis of a sample of a person's breath or blood, has reason to suspect that the person (the ***alleged offender***) has done either of the following (the ***alleged conduct***) —

(i) committed an offence against section 63;

(ii) driven or attempted to drive a motor vehicle while having a blood alcohol content of or above 0.08 g of alcohol per 100 ml of blood;

or

(b) a police officer (the ***police officer***) has reason to suspect that a person (the ***alleged offender***) has committed an offence against section 67 or 67AD(4) or (6) (the ***alleged offence***).

(2) If this section applies the police officer may give the alleged offender a notice that is in accordance with this section (a ***disqualification notice***) by delivering the notice to the alleged offender personally.

(3) The disqualification notice must contain a statement to the effect that the alleged offender is disqualified from holding or obtaining a driver's licence for a period commencing on receipt of the notice and ending on the day that is 2 months after the day the notice is received unless before the expiry of that period the notice is revoked under section 71E, 71F or 71G.

(4) The disqualification notice must —

(a) identify the provision under which the notice is given; and

(b) specify the grounds on which the notice is given; and

(c) identify the time and date on which the alleged offence was committed or alleged conduct occurred; and

(d) identify where the alleged offence was committed or alleged conduct occurred; and

(e) describe the alleged offence or alleged conduct with reasonable clarity; and

(f) identify the offence, or offences, that the alleged offender is suspected of committing.

(5) The disqualification notice must also include a statement to the effect that section 71F contains law about the circumstances in which the alleged offender may apply to a court for an order revoking the notice.

(6) A disqualification notice cannot be given to an alleged offender —

(a) if the alleged offender engaged in alleged conduct, more than 10 days after the later of —

(i) the day of the alleged conduct; or

(ii) if a sample of the alleged offender's blood was taken under section 66 in connection with the alleged conduct, the day on which a police officer receives an analysis result of the sample;

or

(b) if the alleged offence is an offence under section 67 or 67AD(4) or (6), more than 10 days after the day of the alleged offence.

(7) If a police officer gives a person a disqualification notice the police officer must write on the notice the time and date when it was given and the time and date when the disqualification expires.

(8) A police officer may, by written notice given to a person to whom a disqualification notice has been given, amend the disqualification notice to correct any error in the disqualification notice.

(9) If a police officer gives a person a disqualification notice or a notice amending a disqualification notice in accordance with this section the police officer must, as soon as is practicable, cause particulars of the notice to be sent to the CEO.

[Section 71C inserted: No. 51 of 2010 s. 11; amended: No. 8 of 2012 s. 15; No. 27 of 2020 s. 34.]

71D. Disqualification notice (s. 71C), consequences of

(1) A person who is given a disqualification notice in accordance with section 71C is disqualified from holding or obtaining a driver's licence for the period set out in the notice unless the notice is sooner revoked.

(2) The period of disqualification imposed under subsection (1) is concurrent with any other period for which the person is disqualified from holding or obtaining a driver's licence.

[Section 71D inserted: No. 51 of 2010 s. 11.]

71E. Revocation of disqualification notice by police officer

(1) A police officer must immediately revoke a disqualification notice if —

(a) the police officer becomes aware that the breath analysing equipment used to analyse the sample of the person's breath provided in connection with an offence to which the notice relates was faulty at the time of the analysis; or

(b) a charge for an offence to which the notice relates has not been laid within 1 month after the time when the notice was given; or

(c) a charge for an offence to which the notice relates is discontinued.

(2) If under this section a police officer revokes a disqualification notice the police officer must, as soon as is practicable, cause notice of the revocation to be given to —

(a) the person to whom the disqualification notice was given under section 71C; and

(b) the CEO.

[Section 71E inserted: No. 51 of 2010 s. 11; amended: No. 8 of 2012 s. 16; No. 27 of 2020 s. 35.]

71F. Disqualification notice (s. 71C), court may order police to revoke

(1) A person to whom a disqualification notice is given under section 71C may apply to the Magistrates Court or, if the person is under 18 years of age, to the Children's Court, for an order directing the Commissioner of Police to revoke the notice.

(2) An application made under subsection (1) must —

(a) be made in accordance with any applicable rules of court; and

(b) include particulars of the exceptional circumstances that the applicant alleges justifies the making of the order; and

(c) be served on the Commissioner of Police at least 14 days before it is heard and determined.

(3) The Commissioner of Police is entitled to be heard on an application made under subsection (1).

(4) The court may either make an order directing the Commissioner of Police to revoke the disqualification notice from the day specified in the order or refuse the application.

(5) The court must not make an order directing the Commissioner of Police to revoke a disqualification notice unless it is satisfied that exceptional circumstances exist that justify the making of such an order.

(6) If a court makes an order directing the Commissioner of Police to revoke a disqualification notice, the court is to cause a copy of the order to be sent to the CEO.

[Section 71F inserted: No. 51 of 2010 s. 11; amended: No. 8 of 2012 s. 17.]

71G. Disqualification notice (s. 71C) automatically revoked on acquittal etc.

(1) If a court —

(a) acquits a person of an offence to which a disqualification notice relates; or

(b) dismisses a charge for an offence to which a disqualification notice relates,

the disqualification notice is revoked.

(2) If under this section a disqualification notice is revoked, the court is to cause particulars of the revocation to be sent to the CEO.

[Section 71G inserted: No. 51 of 2010 s. 11; amended: No. 8 of 2012 s. 18.]

71H. Period of disqualification under s. 71C notice to be taken into account in sentencing

(1) This section applies if a court convicts a person of an offence to which a disqualification notice relates.

(2) If this section applies, the court is to take into account any period of disqualification imposed under section 71D(1) in respect of the disqualification notice when making an order disqualifying the person from holding or obtaining a driver's licence.

[Section 71H inserted: No. 51 of 2010 s. 11; No. 27 of 2020 s. 36.]

72. Taking and testing samples: regulations for s. 59 to 73, and approval of apparatus and persons

(1) The Governor may make regulations prescribing all matters that are necessary or convenient for the purpose of carrying out, or giving effect to, the provisions of sections 59 to 73 inclusive, and, in particular and without limiting the generality of the foregoing, may make regulations —

(a) prescribing the manner of providing samples of breath and oral fluid and taking samples of blood, and regulating the manner of dealing with samples of breath, blood and oral fluid; and

(aa) prescribing equipment for use in the taking of samples of blood and the collection of samples of oral fluid; and

(ab) prescribing the manner and methods by which samples of blood may be analysed for alcohol; and

(ac) prescribing the manner and methods by which samples of blood and oral fluid may be analysed for drugs; and

(b) prescribing the manner of operation of breath analysing equipment and of determining breath analysing equipment to be in proper working order; and

(ba) prescribing the manner of indication of a result for the purposes of section 68(7) and (8); and

(bb) prescribing the procedure for assessing whether a person is drug impaired; and

(bc) prescribing the procedure for conducting preliminary oral fluid tests; and

(bd) prescribing the procedure for drug testing samples of oral fluid by an approved device; and

(c) prescribing forms, including any certificate required for the purposes of the sections herein mentioned; and

(d) prescribing the fees payable to a prescribed sample taker attending a person for the purpose of taking a sample of their blood and those payable in respect of the analysis of a sample of blood by an analyst, or a sample of blood or oral fluid by a drugs analyst, and for the payment and recovery of those fees.

(1a) Without limiting subsection (1), procedures may be prescribed under subsection (1)(bc) or (bd) by reference to instructions provided by the manufacturer of a device of a type approved under subsection (2)(c) or (d).

(2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of —

(a) types of apparatus for the purpose of ascertaining a person's blood alcohol content by analysis of a sample of the person's breath; and

(b) types of apparatus for the purpose of conducting preliminary tests for the purposes of section 66; and

(c) types of devices for the purpose of conducting drug testing of a sample of a person's oral fluid for the purposes of section 66D; and

(d) types of devices for the purpose of conducting preliminary oral fluid tests for the purposes of section 66C,

and may, by notice so published, revoke any such approval.

[(2a) deleted]

(3A) In subsection (2) —

Minister means the Minister to whom the administration of the *Police Act 1892* is committed.

(3) The chief executive officer of the Chemistry Centre (WA) may, from time to time —

(a) certify a person as being competent to determine the concentration of alcohol in bodily substances; and

(aa) certify a person as being competent to ascertain whether and to what extent drugs are present in bodily substances,

[(b) deleted]

and may rescind any certificate given under this subsection.

(4) The Commissioner of Police may, from time to time —

(a) certify a person as being competent to operate all types of breath analysing equipment; and

(b) authorise a person to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D; and

(c) rescind or revoke a certificate or an authorisation.

(5) The Commissioner of Police must not certify a person under subsection (4)(a) unless, in the Commissioner's opinion, the person has the appropriate training to operate all types of breath analysing equipment.

(6) The Commissioner of Police must not authorise a person under subsection (4)(b) unless, in the Commissioner's opinion, the person has the appropriate training to collect, and conduct drug testing of, samples of oral fluid in accordance with the regulations.

(7) If the certification of a person by the chief executive officer of the Chemistry Centre (WA) under subsection (3)(b) was in effect immediately before commencement day, the certification has effect, on and after commencement day, as if it were the certification of the person by the Commissioner of Police under subsection (4)(a) (including for the purposes of section 70(2)(a)).

(8) In subsection (7) —

commencement day means the day on which the *Road Traffic Legislation Amendment Act 2016* section 12 comes into operation.

[Section 72 amended: No. 82 of 1982 s. 19; No. 121 of 1987 s. 10; No. 19 of 1990 s. 8; No. 39 of 2000 s. 36; No. 44 of 2004 s. 11; No. 6 of 2007 s. 17; No. 10 of 2007 s. 43; No. 39 of 2007 s. 15; No. 25 of 2016 s. 12 and 40; No. 27 of 2020 s. 37.]

*[**72A.** Deleted: No. 27 of 2020 s. 38.]*

Division 3 — General matters as to driving offences

[Heading inserted: No. 10 of 2004 s. 10.]

73. Certain offences extend to driving or attempting to drive in public places

In sections 54, 55 and 56 and in sections 59 to 72 inclusive, but not in section 62A, a reference, however expressed, to the driving of or attempting to drive a motor vehicle shall be construed as a reference to the driving of or attempting to drive a motor vehicle on a road or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have

access, and a reference to a driver shall be construed accordingly.

[Section 73 amended: No. 10 of 2004 s. 11; No. 39 of 2007 s. 24.]

*[**74.** Deleted: No. 51 of 2016 s. 13.]*

*[**75-78.** Deleted: No. 8 of 2012 s. 20.]*

Division 4 — Impounding and confiscation of vehicles for certain offences

[Heading inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 12.]

Subdivision 1 — Preliminary

[Heading inserted: No. 10 of 2004 s. 13.]

78A. Terms used

(1) In this Division —

approved means approved by the Commissioner;

Commissioner means the Commissioner of Police;

day of the offence means the day on which the relevant offence was committed;

hired, in relation to a vehicle, means a vehicle that —

(a) is owned by a person whose business is the short term hire of vehicles; and

(b) is part of the business's fleet; and

(c) under a written agreement, is hired for the hirer's short term use;

impound, in relation to a vehicle, means to store the vehicle following its seizure or surrender;

impounding offence (driver's licence) means —

(a) an offence against section 49(1)(a) that is committed by a person described in section 49(3)(a), (b), (ca), (c) or (da); or

(b) an offence against the *Road Traffic (Authorisation to Drive) Act 2008* section 38(1)(a); or

(c) an offence committed before the coming into operation of the *Road Traffic Amendment Act 2008* section 5(a) that was an impounding offence (driver's licence) as defined in this section as in force when the offence was committed;

impounding offence (driving) means —

(a) an offence against section 60, 60A or 62A; or

(b) an offence committed before the coming into operation of the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016* section 14 that was an impounding offence (driving) as defined in this section as in force when the offence was committed;

impounding or confiscation order means —

(a) a court order made under section 80A, 80B(1), 80C(1), 80CA(1), 80CB(1) or 80FA; or

(b) a court order made before the coming into operation of the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016* section 14 that was an impounding or confiscation order as defined in this section as in force when the order was made;

impounding order means a court order under section 80B(1), 80CA(1) or 80FA;

impounding period means the period for which the vehicle is specified to be impounded;

interest, in relation to a vehicle, means a legal or equitable interest, right or title in or to the ownership or possession of the vehicle;

lent in addition to the ordinary meaning of the word means hired in the ordinary meaning of that word, or subject to a hire purchase agreement within the meaning of that term in the *Hire-Purchase Act 1959* or subject to a goods mortgage in connection with a credit contract within the meaning of the *National Credit Code* (Commonwealth);

reasonable expenses, of the Commissioner, means expenses reasonably incurred by, and currently owing to, the Commissioner;

road rage circumstances accompany the commission of an offence if —

[(a) deleted]

(b) the offence is committed as a reaction to, and is to a substantial extent motivated by, an occurrence that takes place on a road, or in any place to which the public is permitted, whether on payment of a fee or otherwise, to have access, while —

(i) the offender is driving a vehicle on the road or in the place; and

(ii) a victim of the offence is using the same road or place, whether as the driver of, or a passenger in, another vehicle or otherwise;

road rage offence means an offence the commission of which is accompanied by road rage circumstances, but only if it is —

(a) an offence of which it is an element that the offender —

(i) assaults a victim; or

(ii) damages property in the possession of, or under the control of, a victim;

or

(b) an offence against section 60, as in force from time to time, or 60A in circumstances that involve the offender driving in a manner that is dangerous to a particular victim;

senior police officer means a police officer who is, or is acting as, an inspector or an officer of a rank more senior than an inspector;

surrender period, in relation to a vehicle, means the period specified under section 80F in an order as the period in which the vehicle is to be surrendered to the Commissioner;

vehicle referred to in section 80GA means a vehicle for the impounding or confiscation of which an application may be made in accordance with section 80GA.

(2) In this Division, section 60(1A) is the offence for which a vehicle was impounded if —

(a) in relation to the driving of the vehicle, a person is charged with an offence against section 60A(1) or (2); and

(b) under section 60A(3), the person is instead convicted of an offence against section 60(1A).

(3) In this Division, section 60A(1) is the offence for which a vehicle was impounded if —

(a) in relation to the driving of the vehicle, a person is charged with an offence against section 60(1A); and

(b) under section 60(2), the person is instead convicted of an offence against section 60A(1).

(4) In this Division, section 60A(2) is the offence for which a vehicle was impounded if —

(a) in relation to the driving of the vehicle, a person is charged with an offence against section 60(1A); and

(b) under section 60(2), the person is instead convicted of an offence against section 60A(2).

(5) In this Division, section 62A, as in force from time to time, is the offence for which a vehicle was impounded if —

(a) in relation to the driving of the vehicle, a person is charged with an offence against —

(i) section 60(1A); or

(ii) section 60(1) as in force before the coming into operation of the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016* section 14;

and

(b) under section 60(2), the person is instead convicted of an offence against section 62A.

[Section 78A inserted: No. 10 of 2004 s. 13; amended: No. 54 of 2006 s. 25; No. 4 of 2007 s. 4, 11, 13 and 30; No. 24 of 2008 s. 5; No. 23 of 2009 s. 7; No. 14 of 2010 s. 12; No. 8 of 2012 s. 21 (as amended: No. 10 of 2015 s. 17); No. 2 of 2015 s. 13; No. 25 of 2016 s. 63; No. 51 of 2016 s. 14.]

[Section 78A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

78B. Penalties etc. not affected by impounding etc.

(1) The impounding or confiscation of a vehicle under this Division does not affect or in any way limit a provision of this Act relating to the imposition of any penalty or disqualification on a person convicted of an offence in respect of which the vehicle was impounded or confiscated.

(2A) The impounding of a vehicle under Subdivision 2 is not relevant to the exercise by a court of its discretion under Subdivision 3 to impound or confiscate a vehicle.

(2) For the purposes of the *Sentencing Act 1995* section 8 the fact that a vehicle may be, or has been, impounded or confiscated under this Division is not a mitigating factor.

[Section 78B inserted: No. 10 of 2004 s. 13; amended: No. 24 of 2008 s. 6.]

78C. Police powers for this Division

(1) A police officer and any person assisting a police officer in the exercise of a power under section 79(1), 79A(1) or 80O(2) may drive, tow or otherwise convey a vehicle impounded under that section —

(a) to the place where the vehicle is to be stored; or

(b) at the place where the vehicle is stored.

(2A) A police officer may take possession of a vehicle for the purpose of impounding it under section 79BB(2), 79BCB(2), 79BCE(2) or 80Q(2).

(2) A police officer and any person assisting a police officer giving effect to the impounding of a vehicle under section 79BB(2), 79BCB(2), 79BCE(2) or 80Q(2) or an impounding or confiscation order may drive, tow or otherwise convey the vehicle concerned —

(a) to the place where the vehicle is to be stored; or

(b) at the place where the vehicle is stored.

(3) A police officer may seize the keys to a vehicle that is —

(a) impounded under section 79(1), 79A(1) or 80O(2); or

(aa) impounded, or to be impounded, under section 79BB(1) or (2), 79BCB(1) or (2), 79BCE(1) or (2) or 80Q(2); or

[(ba) deleted]

(b) the subject of an impounding or confiscation order but which is not surrendered to the Commissioner within the surrender period.

(4) If a police officer reasonably suspects that the keys to a vehicle referred to in subsection (3)(aa) or (b) are, or the vehicle is, in any premises, the police officer may, without a warrant, at any time, enter the premises for either or both of the following purposes —

(a) seizing the keys;

(b) driving, towing or otherwise conveying the vehicle to a place where the vehicle is to be stored.

(5) A person may use reasonable force to exercise a power given by this section.

(6) The powers that may be exercised under this section are —

(a) subject to the provisions of an impounding or confiscation order; and

(b) in addition to the powers under any other road law in relation to the moving of vehicles.

[Section 78C inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 14; No. 24 of 2008 s. 23 and 24(1); No. 23 of 2009 s. 8; No. 20 of 2010 s. 4; No. 8 of 2012 s. 22, 37 and 38; No. 51 of 2016 s. 15.]

[Section 78C. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

78D. Contracts for conveying, storing etc. impounded etc. vehicles

The Commissioner may, on behalf of the State, enter into a written contract under which the contractor provides services in respect of any of the following —

(a) the driving, towing or otherwise conveying of vehicles impounded under section 79(1), 79A(1), 79BB, 79BCB, 79BCE, 80O(2) or 80Q(1) or (2) or that are the subject of impounding or confiscation orders;

(ba) the surrender of vehicles under this Division;

(b) the storage and the release of vehicles that are, or have been, impounded or confiscated under this Division;

(ca) the sale or other disposal of vehicles or items under section 80JA, 80J or 80V;

(c) otherwise assisting the Commissioner and police officers in the performance of their respective functions under this Division.

[Section 78D inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 15; No. 24 of 2008 s. 23 and 24(2); No. 23 of 2009 s. 9; No. 20 of 2010 s. 5; No. 8 of 2012 s. 23; No. 51 of 2016 s. 16.]

78E. Expenses owed to Commissioner, recovery of

The Commissioner may recover expenses for which a person is liable under section 79E, 80H, 80I, 80K, 80LA or 80W from that person in a court of competent jurisdiction as a debt due to the Commissioner.

[Section 78E inserted: No. 10 of 2004 s. 13; amended: No. 23 of 2009 s. 10; No. 51 of 2016 s. 17.]

78F. Right of Commissioner of Police to be heard in proceedings under this Division

(1) The Commissioner of Police has a right to be heard in proceedings under this Division.

(2) The Commissioner of Police may be represented in those proceedings by any person the Commissioner authorises for that purpose.

[Section 78F inserted: No. 51 of 2016 s. 18.]

Subdivision 2 — Impounding of vehicles by police for certain offences

[Heading inserted: No. 10 of 2004 s. 13; amended: No. 51 of 2016 s. 19.]

79. Impounding offence (driving), police powers to impound vehicle used in

(1A) In this section —

previous offender means a person —

(a) who has previously been convicted of an impounding offence (driving); or

(b) against whom a charge of an impounding offence (driving) is pending;

surrender notice has the meaning given in section 79BA.

(1) If a police officer reasonably suspects that, while driving a vehicle, the driver has committed an impounding offence (driving), the police officer must, unless in the circumstances it is impracticable to do so, seize and impound the vehicle within a period of 28 days after the day of the offence.

(2) The period for which the vehicle is impounded ends —

(a) unless the police officer specifies a longer period under paragraph (b) or the Commissioner extends the period under subsection (3), on the 28th day after the day on which the vehicle is impounded;

(b) if, under subsection (3A), the police officer specifies that the length of the impounding period is to be 3 months, on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded;

(c) if the Commissioner extends the period under subsection (3), on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded.

(3A) If, at the time of impounding the vehicle, the police officer reasonably believes that the driver of the vehicle is a previous offender, the police officer must specify that the length of the impounding period is to be 3 months.

(3B) An impounding period the length of which is specified as 28 days or 3 months under this section, or in a surrender notice for which subsection (1) is the impounding provision, includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.

(3) If the driver of the vehicle is a previous offender but the police officer does not specify under subsection (3A) that the length of the impounding period is to be 3 months, the Commissioner must, on being satisfied that the driver is a previous offender, extend the impounding period to end on the last day of the period of 3 months commencing on the day after the day on which the vehicle was impounded.

(4) The giving of a notice under section 79B(1) does not prevent the Commissioner from, under subsection (3), extending the period for which the vehicle is impounded.

(5) An extension under subsection (3) is of no effect unless, not less than 24 hours before the end of the initial period, notice of the extension is given under section 79B(3) to a responsible person.

[Section 79 inserted: No. 10 of 2004 s. 13; amended: No. 24 of 2008 s. 7; No. 23 of 2009 s. 11; No. 8 of 2012 s. 37 and 38; No. 51 of 2016 s. 20.]

79A. Impounding offence (driver's licence), police powers to impound vehicle used in

(1) If a police officer reasonably suspects that, while driving a vehicle, the driver has committed an impounding offence (driver's licence), the police officer must, unless in the circumstances it is impracticable to do so, seize and impound

the vehicle within a period of 28 days after the day of the offence.

(2) The period for which the vehicle is impounded ends on the 28th day after the day on which the vehicle is impounded.

[Section 79A inserted: No. 23 of 2009 s. 12; amended: No. 8 of 2012 s. 37 and 38; No. 51 of 2016 s. 21.]

79BA. Notice to surrender vehicle for impoundment, issue of etc.

(1) This section applies if —

(a) a police officer (the ***police officer***) suspects that the driver of a vehicle (the ***vehicle***) has committed an offence (the ***offence***); and

(b) the police officer —

(i) would have been required by section 79(1) or 79A(1) (the ***impounding provision***) to impound the vehicle if it had been practicable to do so but, because it was impracticable, the vehicle was not impounded; or

(ii) is required by section 79(1) or 79A(1) (the ***impounding provision***) to impound the vehicle but by the time the police officer forms the necessary suspicion the impounding can most conveniently be achieved by giving a notice under this section.

(2) If this section applies the police officer may give to a responsible person for the vehicle, personally or by registered post, a notice in accordance with this section (a ***surrender notice***).

(3) The surrender notice cannot be given after the expiry of a period of 28 days from the day of the offence.

(4) The surrender notice must contain a statement to the effect that, because the vehicle was used in the commission of the offence, the vehicle is required to be surrendered to the Commissioner for impounding, and the notice must specify —

(a) sufficient details of the vehicle to identify it; and

(b) the time and place at which the offence is suspected to have been committed; and

(c) sufficient other details of the offence to identify the grounds for giving the notice; and

(d) if known, the name of the person who was driving the vehicle when the offence is suspected to have been committed; and

(e) which of sections 79(1) and 79A(1) is the impounding provision; and

(f) if the impounding provision is section 79(1) and the notice is given on the basis that the driver is a previous offender as defined in section 79(1A), sufficient details to explain why the driver is regarded as a previous offender; and

(g) the length of the impounding period, which is to be —

(i) if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for which section 79(1) requires the vehicle to be impounded or would require the vehicle to be impounded if it applied; and

(ii) if section 79A(1) is the impounding provision, 28 days;

and

(h) the place at which, and the time of day during which, the vehicle and its keys are required to be surrendered under this Division; and

(i) the last day on or before which the vehicle and its keys are required to be surrendered, being the 7th day after the day on which the notice is given.

(5) The surrender notice must also include —

(a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and

(b) a statement as to the effect of section 79BB(5) and (6); and

(c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded under section 79BB(2).

[Section 79BA inserted: No. 23 of 2009 s. 12; amended: No. 8 of 2012 s. 24 and 38; No. 51 of 2016 s. 22.]

79BB. Consequences of surrender notice

(1) If a responsible person for a vehicle who is given a surrender notice surrenders the vehicle according to the notice, the vehicle must be impounded for a period that commences at the time when the vehicle is surrendered.

(2) If a responsible person for a vehicle who is given a surrender notice fails to surrender the vehicle according to the notice, the vehicle must be impounded for a period that commences at the time when a police officer takes possession of the vehicle for the purpose of impounding it.

(3) The time when the period for which a vehicle is impounded under subsection (1) or (2) commences is not required to be within a period of 28 days after the day of the offence.

(4) The period for which a vehicle is impounded under subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.

(5) A person who is given a surrender notice in relation to a vehicle commits an offence if the person fails to comply with the notice.

Penalty for this subsection: a fine of 50 PU.

(6) A person who is given a surrender notice in relation to a vehicle commits an offence if, without the authority of a court order, the person —

(a) disposes of an interest that the person has in the vehicle; or

(b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the vehicle.

Penalty for this subsection: a fine of 50 PU.

[Section 79BB inserted: No. 23 of 2009 s. 12; amended: No. 8 of 2012 s. 37; No. 51 of 2016 s. 23.]

79BCA. Surrender substitute vehicle notice

(1) This section applies if —

(a) a vehicle (the ***initially impounded vehicle***) is impounded under section 79, 79A or 79BB; and

(b) under section 79D(2), the initially impounded vehicle is released before the impounding period ends; and

(c) the person (the ***alleged offender***) who allegedly committed the offence in respect of which the initially impounded vehicle was impounded (the ***offence***) is a responsible person for one or more other vehicles.

(2) If this section applies, a police officer may give the alleged offender, personally or by registered post, a notice in accordance with this section (a ***surrender substitute vehicle notice***).

(3) The surrender substitute vehicle notice cannot be given after 28 days after the date of the release of the initially impounded vehicle.

(4) The surrender substitute vehicle notice must contain a statement to the effect that, because the initially impounded vehicle has been released, a vehicle for which the alleged offender is a responsible person (the ***substitute vehicle***) is required to be surrendered to the Commissioner for impounding instead of the initially impounded vehicle.

(5) The surrender substitute vehicle notice must specify the following —

(a) in relation to the offence, its details and the time and place at which it is suspected to have been committed; and

(b) which of sections 79(1) and 79A(1) is the provision that authorised the impounding of the initially impounded vehicle (the ***impounding provision***); and

(c) sufficient details of the initially impounded vehicle to identify it; and

(d) when the initially impounded vehicle was impounded; and

(e) when the initially impounded vehicle was released under section 79D(2); and

(f) sufficient details of the substitute vehicle to identify it; and

(g) if the impounding provision is section 79(1) and the alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender; and

(h) the length of the impounding period for the substitute vehicle, which is to be —

(i) if section 79(1) was the impounding provision for the initially impounded vehicle, either 28 days or 3 months according to which of those periods was the impounding period for which

section 79(1) required the initially impounded vehicle to be impounded; and

(ii) if section 79A(1) was the impounding provision for the initially impounded vehicle, 28 days;

and

(i) the place at which, and the time of day during which, the vehicle and its keys are required to be surrendered under this Division; and

(j) the last day on or before which the vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.

(6) The surrender substitute vehicle notice must also include —

(a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and

(b) a statement as to the effect of section 79BCB(5) and (6); and

(c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded under section 79BCB(2).

(7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender substitute vehicle notice must specify only one of them as the substitute vehicle, being the one decided by the police officer issuing the notice.

[Section 79BCA inserted: No. 20 of 2010 s. 6; amended: No. 8 of 2012 s. 37; No. 51 of 2016 s. 24.]

79BCB. Consequences of surrender substitute vehicle notice

(1) If a responsible person who is given a surrender substitute vehicle notice under section 79BCA surrenders the substitute vehicle specified in the notice according to the notice, the vehicle must be impounded for a period that commences at the time when the vehicle is surrendered.

(2) If a responsible person who is given a surrender substitute vehicle notice under section 79BCA fails to surrender the substitute vehicle specified in the notice according to the notice, the vehicle must be impounded for a period that commences at the time when a police officer takes possession of the vehicle for the purpose of impounding it.

(3) An impounding period the length of which is specified as 28 days or 3 months in a surrender substitute vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.

(4) The period for which a vehicle is impounded under subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.

(5) A person who is given a surrender substitute vehicle notice under section 79BCA in relation to a vehicle commits an offence if the person fails to comply with the notice.

Penalty for this subsection: a fine of 50 PU.

(6) A person who is given a surrender substitute vehicle notice under section 79BCA in relation to a vehicle commits an offence if, without the authority of a court order, the person —

(a) disposes of an interest that the person has in the vehicle; or

(b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the vehicle.

Penalty for this subsection: a fine of 50 PU.

[Section 79BCB inserted: No. 20 of 2010 s. 6; amended: No. 8 of 2012 s. 37; No. 51 of 2016 s. 25.]

79BCC. Cancelling notice under s. 79BA, 79BCA or 79BCD

(1) In this section —

notice to surrender means —

(a) a surrender notice given under section 79BA; or

(b) a surrender substitute vehicle notice given under section 79BCA; or

(c) a surrender alternative vehicle notice given under section 79BCD.

(2) If a senior police officer is satisfied that —

(a) a notice to surrender has been given to a person in respect of a vehicle; and

(b) the vehicle has not been impounded under section 79BB, 79BCB or 79BCE, as the case may be; and

(c) either —

(i) if the vehicle were so impounded, the vehicle would be a vehicle that could, under section 79D, be released before the impounding period ends; or

(ii) the vehicle's condition is such that it no longer functions as a vehicle and a licence could not be granted for it under the *Road Traffic (Vehicles) Act 2012* Part 2,

the officer may cancel the notice to surrender.

(3) As soon as is practicable after a senior police officer cancels a notice to surrender, the officer must give a written notice of the cancellation to the person to whom the notice to surrender was given.

[Section 79BCC inserted: No. 20 of 2010 s. 6; amended: No. 51 of 2016 s. 26.]

79BCD. Surrender alternative vehicle notice

(1) This section applies if —

(a) under section 79BA a surrender notice is given to a person responsible for a vehicle (***vehicle A***) the driver of which (the ***alleged offender***) is suspected of having committed an offence (the ***offence***); and

(b) under section 79BCC the surrender notice is cancelled before vehicle A is impounded under section 79BB; and

(c) the alleged offender is a responsible person for one or more other vehicles.

(2) If this section applies, a police officer may give the alleged offender, personally or by registered post, a notice in accordance with this section (a ***surrender alternative vehicle notice***).

(3) The surrender alternative vehicle notice cannot be given after 28 days after the date on which the surrender notice was cancelled.

(4) The surrender alternative vehicle notice must contain a statement to the effect that, because vehicle A will not be impounded, a vehicle for which the alleged offender is a responsible person (the ***alternative vehicle***) is required to be surrendered to the Commissioner for impounding instead of vehicle A.

(5) The surrender alternative vehicle notice must specify the following —

(a) in relation to the offence, its details and the time and place at which it is suspected to have been committed;

(b) which of sections 79(1) and 79A(1) is the provision that authorised the impounding of vehicle A (the ***impounding provision***);

(c) sufficient details of vehicle A to identify it;

(d) when the surrender notice was cancelled under section 79BCC;

(e) sufficient details of the alternative vehicle to identify it;

(f) if the impounding provision is section 79(1) and the alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender;

(g) the length of the impounding period for the alternative vehicle, which is to be —

(i) if section 79(1) was the impounding provision for vehicle A, either 28 days or 3 months according to which of those periods was the impounding period for which section 79(1) required vehicle A to be impounded; and

(ii) if section 79A(1) was the impounding provision for vehicle A, 28 days;

(h) the place at which, and the time of day during which, the alternative vehicle and its keys are required to be surrendered under this Division;

(i) the last day on or before which the alternative vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.

(6) The surrender alternative vehicle notice must also include —

(a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and

(b) a statement as to the effect of section 79BCE(5) and (6); and

(c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded under section 79BCE(2).

(7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender alternative vehicle notice must

specify only one of them as the alternative vehicle, being the one decided by the police officer issuing the notice.

[Section 79BCD inserted: No. 20 of 2010 s. 6; amended: No. 8 of 2012 s. 37; No. 51 of 2016 s. 27.]

79BCE. Consequences of surrender alternative vehicle notice

(1) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD surrenders the alternative vehicle specified in the notice according to the notice, the vehicle must be impounded for a period that commences at the time when the vehicle is surrendered.

(2) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice, the vehicle must be impounded for a period that commences at the time when a police officer takes possession of the vehicle for the purpose of impounding it.

(3) An impounding period the length of which is specified as 28 days or 3 months in a surrender alternative vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.

(4) The period for which a vehicle is impounded under subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.

(5) A person who is given a surrender alternative vehicle notice under section 79BCD in relation to a vehicle commits an offence if the person fails to comply with the notice.

Penalty for this subsection: a fine of 50 PU.

(6) A person who is given a surrender alternative vehicle notice under section 79BCD in relation to a vehicle commits an offence if, without the authority of a court order, the person —

(a) disposes of an interest that the person has in the vehicle; or

(b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the vehicle.

Penalty for this subsection: a fine of 50 PU.

[Section 79BCE inserted: No. 20 of 2010 s. 6; amended: No. 8 of 2012 s. 37; No. 51 of 2016 s. 28.]

79BC. Acquittal etc. of pending charge of impounding offence (driving), effect of

(1) This section applies if —

(a) because of a pending charge of an impounding offence (driving) against a person (the ***driver***), the person has been regarded under this Subdivision as a previous offender as defined in section 79(1A) (a ***previous offender***); and

(b) the driver is acquitted of or discharged from the charge; and

(c) the driver would not otherwise have been a previous offender.

(2) If the acquittal or discharge occurs when a vehicle has been impounded on the basis that the person is a previous offender but the impounding period that would have applied if the person had not been a previous offender (the ***shorter impounding period***) has not yet elapsed, the impounding period is reduced by this section to the shorter impounding period.

(3) If the acquittal or discharge occurs when a vehicle has been impounded on the basis that the person is a previous offender and the impounding period that would have applied if the

person had not been a previous offender (the ***shorter impounding period***) has already elapsed but the vehicle is still impounded, the impounding period is reduced by this section to end on the day on which the acquittal or discharge occurs.

(4) The Commissioner is to ensure that each person, other than the CEO, to whom a notice of the impounding of the vehicle has been given under section 79B is given a notice of a reduction of the impounding period by this section.

(5) Whether the acquittal or discharge occurs while the vehicle is still impounded or not, for calculating a liability under this Division to pay an amount by reference to the expenses incurred by the Commissioner in impounding the vehicle those expenses are limited to expenses that would have been incurred in impounding the vehicle for the shorter impounding period.

(6) A person who has already paid under this Division an amount that exceeds the amount calculated according to subsection (5) is entitled to a refund from the Commissioner of the amount of the excess.

[Section 79BC inserted: No. 23 of 2009 s. 12; amended: No. 8 of 2012 s. 36.]

79BD. Suspension of vehicle licence on Commissioner's request

(1) If —

(a) a responsible person for a vehicle who is given a surrender notice under section 79BA fails to surrender the vehicle specified in the notice according to the notice; or

(b) a responsible person for a vehicle who is given a surrender substitute vehicle notice under section 79BCA fails to surrender the substitute vehicle specified in the notice according to the notice; or

(c) a responsible person for a vehicle who is given a surrender alternative vehicle notice under

section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice,

the Commissioner may request the CEO to suspend the licence in respect of the vehicle until the vehicle is impounded under this Division or the Commissioner requests the CEO to revoke the suspension.

(2) The Commissioner is required, on being satisfied that a circumstance described in a paragraph of section 79D(2) exists, to request the CEO to revoke the suspension and may, if for any other reason the Commissioner considers it appropriate to do so, request the CEO to revoke the suspension.

(3) While the licence in respect of a vehicle is suspended according to a request under this section —

(a) the licence is of no effect; and

(b) an application to renew the licence cannot be granted, even if the application was made before the licence was suspended.

(4) The suspension does not extend the period for which the licence may be valid or effective beyond the expiration of the period for which the licence was expressed to be granted or renewed.

[Section 79BD inserted: No. 23 of 2009 s. 12; amended: No. 20 of 2010 s. 7; No. 8 of 2012 s. 36.]

79B. Notice of impounding, police to issue etc.

(1) The Commissioner is to ensure that, as soon as practicable after a vehicle is impounded under section 79(1), 79A(1) or 79BB, notice of the impounding is given to —

(a) each responsible person; and

(b) if the driver is not a responsible person, the driver; and

(c) if the licence in respect of the vehicle is for the time being suspended under section 79BD, the CEO.

(2) The notice of the impounding given under subsection (1) is to be in an approved form and contain details of —

(a) the time when the vehicle was impounded; and

(b) the address of the place where the vehicle is stored; and

(ca) if under section 79(3A) the length of the impounding period is specified to be 3 months, the charge or previous conviction because of which the driver was a previous offender as defined in section 79(1A); and

(cb) the vehicle sufficient to identify it; and

(cc) the time and place at which the offence, in the commission of which the vehicle was used, is suspected to have been committed; and

(cd) the offence sufficient to identify the grounds on which the vehicle was impounded; and

(ce) if known, the person who was driving the vehicle when the offence is suspected to have been committed; and

(cf) the length of the impounding period, which is to be —

(i) if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for which section 79(1) requires the vehicle to be impounded or would require the vehicle to be impounded if it applied; and

(ii) if section 79A(1) is the impounding provision, 28 days;

and

(cg) the grounds on which the vehicle may be released under section 79D; and

(c) how, when and to whom the vehicle can be released; and

(d) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

(3A) The Commissioner is to ensure that, as soon as practicable after a vehicle (the ***substitute vehicle***) is impounded under section 79BCB following the issue of a surrender substitute vehicle notice to a responsible person for the vehicle under section 79BCA, notice of the impounding is given to —

(a) each responsible person for the vehicle; and

(b) if the licence in respect of the vehicle is for the time being suspended under section 79BD, the CEO.

(3B) The notice of the impounding given under subsection (3A) is to be in an approved form and contain details of —

(a) the time and place at which the offence, in the commission of which the initially impounded vehicle (as defined in section 79BCA(1)) was used, is suspected to have been committed; and

(b) the offence sufficient to identify the grounds on which the initially impounded vehicle was impounded; and

(c) the person who was driving the initially impounded vehicle when the offence is suspected to have been committed; and

(d) the substitute vehicle sufficient to identify it; and

(e) the time when the substitute vehicle was impounded; and

(f) the address of the place where the substitute vehicle is stored; and

(g) the length of the impounding period for the substitute vehicle which is to be the period specified in the surrender substitute vehicle notice under section 79BCA(5)(h); and

(h) the grounds on which the substitute vehicle may be released under section 79D; and

(i) how, when and to whom the substitute vehicle can be released; and

(j) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

(3C) The Commissioner is to ensure that, as soon as practicable after a vehicle (the ***alternative vehicle***) is impounded under section 79BCE following the issue of a surrender alternative vehicle notice to a responsible person for the vehicle under section 79BCD, notice of the impounding is given to —

(a) each responsible person for the vehicle; and

(b) if the licence in respect of the vehicle is for the time being suspended under section 79BD, the CEO.

(3D) The notice of the impounding given under subsection (3C) is to be in an approved form and contain details of —

(a) the offence referred to in section 79BCD(1)(a) including the time and place at which it is suspected to have been committed; and

(b) the alternative vehicle sufficient to identify it; and

(c) the time when the alternative vehicle was impounded; and

(d) the address of the place where the alternative vehicle is stored; and

(e) the length of the impounding period for the alternative vehicle which is to be the period specified in the surrender alternative vehicle notice under section 79BCD(5)(g); and

(f) the grounds on which the alternative vehicle may be released under section 79D; and

(g) how, when and to whom the alternative vehicle can be released; and

(h) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

(3) The Commissioner is to ensure that, as soon as practicable after an impounding period is extended under section 79(3), notice of the extension is given to each responsible person and, if the driver is not a responsible person, the driver.

(4) The notice of the extension is to be in an approved form and contain details of —

(a) the impounded vehicle; and

(b) the time when the vehicle was impounded and when the impounding period would end if it were not extended; and

(c) the charge or previous conviction because of which the impounding period is extended; and

(d) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

[Section 79B inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 31(1); No. 24 of 2008 s. 9 and 23; No. 23 of 2009 s. 13; No. 20 of 2010 s. 8; No. 8 of 2012 s. 36.]

79C. Senior officer to be informed etc. if vehicle impounded

(1) A police officer, other than a senior police officer, who seizes and impounds a vehicle under section 79(1) or 79A(1) or gives a surrender notice under section 79BA or a surrender substitute vehicle notice under section 79BCA or a surrender alternative vehicle notice under section 79BCD is to inform a senior police officer, as soon as practicable after the vehicle is impounded or the notice is given, as the case requires, of —

(aa) the date of the seizure and impounding, or the giving of the notice, as the case requires; and

(a) the grounds on which the police officer suspects the matters mentioned in section 79(1) or 79A(1), as is relevant to the case; and

(b) if the police officer specified that the length of the impounding period was to be 3 months, the charge or previous conviction because of which the driver of the vehicle was a previous offender as defined in section 79(1A).

(2) A senior police officer who is informed under subsection (1) by a police officer is to make enquiries so as to satisfy him or herself —

(a) that there are reasonable grounds for the police officer to suspect the matters mentioned in section 79(1) or 79A(1), as the case requires; and

(b) if the police officer specified that the length of the impounding period was to be 3 months, that there are reasonable grounds for believing that the driver of the vehicle is a previous offender as defined in section 79(1A).

(3) If a senior police officer is not satisfied as required by subsection (2)(a) —

(a) if the vehicle has been impounded under section 79, 79A or 79BB, the senior police officer and the police officer are to take measures to ensure that the vehicle is released from impoundment and returned to a responsible person, or if no responsible person is available, to the driver of the vehicle;

(b) if under section 79BA a surrender notice has been given but the vehicle has not yet been surrendered, the senior police officer is to cancel the notice and immediately notify the person to whom the notice was given that the notice has been cancelled;

(c) if a substitute vehicle has been impounded under section 79BCB, or an alternative vehicle has been impounded under section 79BCE, the senior police officer and the police officer are to take measures to

ensure that the vehicle is released from impoundment and returned to a responsible person;

(d) if under section 79BCA a surrender substitute vehicle notice has been given, or under section 79BCD a surrender alternative vehicle notice has been given, but the vehicle has not yet been surrendered, the senior police officer is to cancel the notice and immediately notify the person to whom the notice was given that the notice has been cancelled.

(4) If a senior police officer is satisfied as required by subsection (2)(a) but is not satisfied as required by subsection (2)(b), the senior police officer is to alter the impounding period to end on the 28th day after the day on which the vehicle is impounded and the Commissioner is to give notice of the variation to each person who has been given notice under section 79B of the impounding and, if the vehicle has not yet been impounded, to the person who was given the surrender notice or surrender substitute vehicle notice or surrender alternative vehicle notice, as the case may be.

[Section 79C inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 31; No. 24 of 2008 s. 10 and 23; No. 23 of 2009 s. 14; No. 20 of 2010 s. 9; No. 8 of 2012 s. 37 and 38; No. 51 of 2016 s. 29.]

79D. Release of impounded vehicle

(1) In this section —

impounded vehicle means a vehicle impounded under section 79(1), 79A(1), 79BB, 79BCB or 79BCE;

passenger transport vehicle means a passenger transport vehicle for which a passenger transport vehicle authorisation has been issued under the *Transport (Road Passenger Services) Act 2018* whether or not, at the relevant time, the vehicle is standing or plying for hire or transporting passengers for reward;

provider of a passenger transport vehicle has the meaning given in the *Transport (Road Passenger Services) Act 2018* section 4(1);

service, in relation to a vehicle, includes to clean, examine, improve, inspect, paint, park, repair, store and transport it;

vehicle service provider means a person who, for reward in the course of a business, services vehicles.

(2) The Commissioner is to ensure that an impounded vehicle is not released before the impounding period ends unless —

(a) a police officer is satisfied that, at the time that the offence in respect of which the vehicle was impounded was committed, the vehicle was a stolen vehicle or a hired vehicle; or

(b) a senior police officer is not satisfied as required by section 79C(2)(a); or

(c) a senior police officer is satisfied that unless the vehicle is released, exceptional hardship will be suffered in the particular case; or

(d) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

(i) the vehicle, with the consent of a person lawfully in possession of it, was in the possession of a vehicle service provider for the purposes of being serviced by the vehicle service provider; and

(ii) the person who allegedly committed the offence was the vehicle service provider or a person employed by, contracted to or acting with the authority of the vehicle service provider; and

(iii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

(e) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

(i) the vehicle had been lent by a vehicle service provider to the person who allegedly committed the offence for use while the vehicle service provider was servicing a vehicle for the person; and

(ii) the person who allegedly committed the offence was not a responsible person for the vehicle;

or

(f) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

(i) the vehicle was for sale; and

(ii) the person who allegedly committed the offence (the ***alleged offender***) was test-driving the vehicle with the consent of the person selling it for the purpose of deciding whether to buy it; and

(iii) the person who consented to the alleged offender test-driving the vehicle had complied with subsection (3); and

(iv) the alleged offender was not employed by or contracted to the person selling the vehicle; and

(v) the alleged offender was not a responsible person for the vehicle;

or

(g) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

(i) the vehicle was used primarily in the course of a business conducted by a person (the ***business owner***); and

(ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the business owner; and

(iii) the alleged offender was driving the vehicle with the consent of the business owner or an agent of the business owner; and

(iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4); and

(v) the alleged offender was not a responsible person for the vehicle;

or

(h) a senior police officer is satisfied that, at the time the offence for which the vehicle was impounded was committed —

(i) the vehicle was a passenger transport vehicle; and

(ii) the person who allegedly committed the offence (the ***alleged offender***) was driving the passenger transport vehicle under an agreement between the alleged offender and the provider of the passenger transport vehicle, or an agent of the provider, under which the alleged offender pays the provider or agent in order to be allowed to drive the passenger transport vehicle for reward; and

(iii) the provider of the passenger transport vehicle or agent who entered into the agreement with the

alleged offender had complied with subsection (5); and

(iv) the alleged offender was not a responsible person for the vehicle;

or

(i) a senior police officer is satisfied that, at the time the offence for which the vehicle was impounded was committed —

(i) the vehicle was a passenger transport vehicle; and

(ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the provider of the passenger transport vehicle; and

(iii) the alleged offender was driving the vehicle with the consent of the provider of the vehicle; and

(iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (5A); and

(v) the alleged offender was not a responsible person for the vehicle;

or

(j) a senior police officer is satisfied that —

(i) the vehicle cannot be released under any of paragraphs (a) to (i) or under circumstances prescribed under paragraph (k); and

(ii) unless the vehicle is released, manifest injustice or manifest unfairness will be suffered by a person other than the alleged offender;

or

(k) circumstances prescribed by the regulations exist.

(3) For the purposes of subsection (2)(f)(iii), a person who consents to a person test-driving a vehicle must —

(a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and

(b) inform the driver that he or she must obey the law when test-driving the vehicle.

(4) For the purposes of subsection (2)(g)(iv), a person who consents to an employee or contractor driving a vehicle must —

(a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and

(b) ensure the driver has been instructed to obey the law when driving the vehicle.

(5) For the purposes of subsection (2)(h)(iii), a provider of a passenger transport vehicle or agent who enters into an agreement with a driver of a passenger transport vehicle must —

(a) ensure the driver holds a current passenger transport driver authorisation under the *Transport (Road Passenger Services) Act 2018*; and

(b) ensure the driver has been instructed to obey the law when driving the vehicle.

(5A) For the purposes of subsection (2)(i)(iv), a provider of a passenger transport vehicle or agent who consents to an employee or contractor driving the vehicle must —

(a) ensure the driver holds a current passenger transport driver authorisation under the *Transport (Road Passenger Services) Act 2018*; and

(b) ensure the driver has been instructed to obey the law when driving the vehicle.

(6) For the purposes of subsection (2)(j) none of these factors by itself means manifest injustice or manifest unfairness will be suffered by a person —

(a) if the offence in respect of which the vehicle was impounded was an impounding offence (driver's licence), the fact that a person responsible for the vehicle concerned had no grounds to suspect the alleged offender was not authorised to drive the vehicle at the time of the offence;

(b) the fact that, although a responsible person for the vehicle expressly or impliedly authorised the person who allegedly committed the offence in respect of which the vehicle was impounded (the ***alleged offender***) to drive the vehicle, the responsible person had no grounds to suspect the alleged offender would drive in a manner that contravened this Act.

(7) A police officer or a senior police officer may require a person seeking the release of an impounded vehicle to provide information to him or her for the purposes of this section in a statutory declaration.

(8) Circumstances that may be prescribed by regulations made for the purposes of subsection (2)(k) are not limited by the circumstances described in the other paragraphs of subsection (2).

[Section 79D inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 6; No. 24 of 2008 s. 11 and 23; No. 23 of 2009 s. 15; No. 20 of 2010 s. 10; No. 8 of 2012 s. 37; No. 26 of 2018 s. 312.]

79E. Liability for police expenses for impounding

If a vehicle is impounded under this Subdivision and a person is convicted of the offence for which the vehicle was impounded, that person is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all

reasonable expenses of the Commissioner in impounding the vehicle and any substitute vehicle impounded under section 79BCB and any alternative vehicle impounded under section 79BCE.

[Section 79E inserted: No. 23 of 2009 s. 16; amended: No. 20 of 2010 s. 11; No. 51 of 2016 s. 30.]

Subdivision 3 — Impounding and confiscation of vehicles by court order

[Heading inserted: No. 10 of 2004 s. 13.]

*[**80.** Deleted: No. 23 of 2009 s. 17.]*

80A. Confiscation of vehicles used in certain impounding offences (driving)

(1) A court that convicts a person of an impounding offence (driving) may, by order and in accordance with subsection (2), (3) or (4), confiscate the vehicle used in the offence.

(2) A court may make an order if it is satisfied that —

(a) the offence was committed in a school zone; or

(b) the offence was committed in a confiscation zone other than a school zone and the commission of the offence resulted in, or was likely to result in —

(i) members of the public experiencing harassment, intimidation, fear or alarm; or

(ii) damage to any property, including the road;

or

(c) the commission of the offence involved the driving of the vehicle at 90 km/h or more above the speed limit.

(3) The court may make the order if it is satisfied that —

(a) the offence was committed in a confiscation zone; and

(b) in the 5 years before the day on which the offence was committed the person was convicted of a previous impounding offence (driving) which was committed in a confiscation zone.

(4) The court may make the order if it is satisfied that in the 5 years before the day on which the offence was committed the person was convicted of 2 previous impounding offences (driving).

[Section 80A inserted: No. 51 of 2016 s. 31.]

80B. Impounding offence (driver's licence) by previous offender, court may impound vehicle of

(1) A court that convicts a person of an impounding offence (driver's licence) may, by order, impound a vehicle referred to in section 80GA for a period starting on the date on which —

(a) the vehicle is surrendered; or

(b) under section 78C, the vehicle is conveyed to the place where it is to be stored,

and being such period, not exceeding 3 months, as is specified in the order.

(2) A court is not to make an order under subsection (1) unless it is satisfied that in the 3 years before the day on which the offence was committed the person was convicted of a previous impounding offence (driver's licence).

[Section 80B inserted: No. 10 of 2004 s. 13; amended: No. 24 of 2008 s. 12.]

80C. Impounding offence (driver's licence) by previous offender, court may confiscate vehicle of

(1) A court that convicts a person of an impounding offence (driver's licence) may, by order, confiscate a vehicle referred to in section 80GA.

(2) A court is not to make an order under subsection (1) unless it is satisfied that in the 5 years before the day on which the offence

was committed the person was convicted of 2 previous impounding offences (driver's licence).

[Section 80C inserted: No. 10 of 2004 s. 13; amended: No. 24 of 2008 s. 13.]

80CA. Road rage offence, court may impound offender's vehicle for

(1) A court that convicts a person of a road rage offence may, by order, impound a vehicle referred to in section 80GA for a period starting on the date on which —

(a) the vehicle is surrendered; or

(b) under section 78C, the vehicle is conveyed to the place where it is to be stored,

and being of the duration, not exceeding 6 months, specified in the order.

[(2) deleted]

[Section 80CA inserted: No. 4 of 2007 s. 16; amended: No. 24 of 2008 s. 14.]

80CB. Road rage offence, court may confiscate offender's vehicle for

(1) A court that convicts a person of a road rage offence may, by order, confiscate a vehicle referred to in section 80GA.

[(2) deleted]

[Section 80CB inserted: No. 4 of 2007 s. 16; amended: No. 24 of 2008 s. 15.]

80D. Effect of confiscation under s. 80A, 80C or 80CB

(1) The property in a vehicle that is confiscated under section 80A, as in force at any time, 80C(1) or 80CB(1) vests absolutely in the State when the order is made, free from all interests, rights, titles or claims in or to the ownership or possession of the vehicle.

(2) Subsection (1) does not operate to prevent proceeds from the sale or disposal of a confiscated vehicle from being paid in accordance with section 80J(7).

[Section 80D inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 17; No. 51 of 2016 s. 32.]

80E. Confiscation under s. 80A not to be of stolen, hired or lent vehicle

(1) A court is not to make an order under section 80A if it is satisfied that at the time that the offence for which the person is convicted was committed, the vehicle was a stolen vehicle or a hired vehicle.

(2) A court is not to make an order under section 80A if it is satisfied that at the time the offence for which the person is convicted was committed, the vehicle was a lent vehicle and instead may make an order under section 80FA(2).

[Section 80E inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 18; No. 24 of 2008 s. 16; No. 23 of 2009 s. 18; No. 51 of 2016 s. 33.]

80FA. When court may order impounding instead of confiscation

(1) In circumstances in which a court could, by order under section 80C(1) or 80CB(1), confiscate a vehicle, the court may instead, by order under this subsection, impound the vehicle for a period, not exceeding 6 months, specified in the order.

(2) In circumstances in which a court could, by order under section 80A, confiscate a vehicle but for section 80E(2) and the fact that the vehicle was a lent vehicle at the relevant time, the court may instead, by order under this subsection, impound the vehicle for a period, not exceeding 6 months, specified in the order.

(3) The impounding period under subsection (1) or (2) starts on the day on which —

(a) the vehicle is surrendered; or

(b) under section 78C, the vehicle is conveyed to the place where it is to be stored.

[Section 80FA inserted: No. 24 of 2008 s. 17; amended: No. 23 of 2009 s. 19; No. 51 of 2016 s. 34.]

80F. Impounding or confiscation order to specify time and place for surrender of vehicle

If a court makes an impounding or confiscation order in respect of a vehicle, the court is to specify in the order the time by which, and the place at which, a responsible person is to surrender the vehicle and its keys to the Commissioner.

[Section 80F inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 19 and 31(1); No. 24 of 2008 s. 18 and 24(1).]

[Section 80F. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]

80GA. Application for s. 80B to 80CB order, which vehicle can be subject of

(1) The Commissioner cannot apply for an order under section 80B(1), 80C(1), 80CA(1) or 80CB(1) for the impounding or confiscation of a vehicle unless —

(a) the offender is a responsible person for the vehicle; and

(b) the vehicle is —

(i) in the case of an order under section 80B(1) or 80C(1), the vehicle used in the offence or a substitute vehicle nominated by the Commissioner under subsection (2);

(ii) in the case of an order under section 80CA(1) or 80CB(1), the vehicle referred to in paragraph (b)(i) of the definition of ***road rage circumstances*** in section 78A or a substitute

vehicle nominated by the Commissioner under subsection (2).

(2) If the alleged offender is not a responsible person for the vehicle to which subsection (1)(b) would, if the Commissioner did not nominate a substitute vehicle, refer, the Commissioner may nominate as a substitute vehicle a motor vehicle for which the alleged offender is, at the time of applying for the order, a responsible person.

(3) The Commissioner cannot nominate a substitute vehicle unless at least 14 days before the application is made the Commissioner gives to the alleged offender written notice of the intention to apply for the order in respect of that vehicle.

[Section 80GA inserted: No. 24 of 2008 s. 19.]

80G. Procedure and grounds for making orders under s. 80A to 80CB

(1) In this section —

Commissioner includes a person for the time being authorised by the Commissioner in writing to perform functions of the Commissioner under this section;

order means an order under section 80A, 80B(1), 80C(1), 80CA(1) or 80CB(1).

(2) An application for an order —

(a) can only be made by the Commissioner; and

(b) is to be heard —

(i) as part of the proceedings in which the person is convicted of the offence because of which the order is sought; or

(ii) in subsequent proceedings commenced no later than 3 months after the proceedings in respect of the conviction.

(3) A person is to be regarded as having sufficient notice of the Commissioner's intention to make an application for an order in respect of a particular vehicle if —

(a) the Commissioner gives the person written notice of that intention at least 14 days before the application is made and the person is —

(i) the driver of the vehicle; or

(ii) a responsible person; or

(iii) any other person who the Commissioner is aware has or may have an interest in the vehicle;

or

(b) in the case of a person not referred to in paragraph (a), the Commissioner publishes notice of that intention at least 14 days before the application is made in a newspaper having State-wide circulation.

(3A) Despite subsections (2) and (3), the court may make an order on its own initiative in proceedings referred to in subsection (2)(b), in which case subsection (3) applies as if —

(a) references to the Commissioner were references to the court; and

(b) references to an intention to make an application were references to an intention to make an order.

(4) Before a court makes an order it has to give a reasonable opportunity to show cause why the order should not be made to —

(a) the driver of the vehicle; and

(b) if a person other than the driver is a responsible person for the vehicle, each responsible person; and

(c) each other person, if any, who has an interest in the vehicle.

(5) In determining whether or not to make an order other than an order under section 80A(3) or (4), the court may have regard to —

(a) whether the offence because of which the order is sought was committed with the knowledge and acquiescence of a person who has an interest in the vehicle; and

(b) whether making the order will cause severe financial or physical hardship to a person who has an interest in the vehicle or the usual driver of the vehicle; and

(c) any other relevant matter.

(6A) The court is required to make an order that may be made under section 80A(3) or (4) unless it is satisfied that the order would cause severe financial or physical hardship to a person, other than the driver of the vehicle, who has an interest in the vehicle or is the usual driver of the vehicle.

(6) A person —

(a) who is given notice under subsection (3)(a); or

(b) who has satisfied the court that the person has an interest in the vehicle,

must not do a restricted act in respect of the vehicle unless a court has made an order approving of the proposed act.

Penalty for this subsection: a fine of 50 PU.

(7A) A person does a restricted act in respect of the vehicle if the person —

(a) disposes of any interest that the person has in the vehicle; or

(b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the vehicle.

(7) If the Commissioner advises the CEO in writing that the Commissioner intends to apply for an order in respect of a

particular vehicle, the CEO must not, before the application is decided, transfer the licence of the vehicle if the vehicle is licensed.

[Section 80G inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 20, 31(1) and 32; No. 24 of 2008 s. 20; No. 23 of 2009 s. 20; No. 8 of 2012 s. 36; No. 51 of 2016 s. 35.]

80H. Liability for police expenses for court-ordered impounding

(1) If a vehicle is impounded on an impounding order, the person because of whose conviction the vehicle was impounded is liable to pay to the Commissioner all reasonable expenses of the Commissioner by way of giving effect to the order.

[(2) deleted]

[Section 80H inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 8 and 21; No. 24 of 2008 s. 25; No. 51 of 2016 s. 36.]

Subdivision 4 — Vehicles impounded or confiscated under Subdivision 2 or 3

[Heading inserted: No. 51 of 2016 s. 37.]

80IA. Release of vehicle after impounding period

(1) When a vehicle has been impounded under Subdivision 2 or on an impounding order and the impounding period ends, the Commissioner is to ensure that the vehicle is released if a responsible person applies in an approved manner for its release.

(2) Subsection (1) does not prevent the Commissioner from refusing under subsection (3) or section 80IB or 80I(1) to release the vehicle.

(3) The Commissioner may refuse to release the vehicle until the place where it is stored is open to the public.

[Section 80IA inserted: No. 4 of 2007 s. 9; amended: No. 24 of 2008 s. 21, 23 and 25; No. 23 of 2009 s. 21.]

80IB. Impounding expenses, payment of before vehicle released

(1) When a vehicle has been impounded under Subdivision 2 or on an impounding order and the impounding period ends, the Commissioner may refuse to release the vehicle until the Commissioner has been paid an amount specified by the Commissioner as being equivalent to all reasonable expenses of the Commissioner in impounding the vehicle.

(2A) If the vehicle impounded under Subdivision 2 is a substitute vehicle impounded under section 79BCB, the expenses referred to in subsection (1) are both the expenses incurred in impounding the substitute vehicle and any unpaid expenses incurred in impounding the initially impounded vehicle (as defined in section 79BCA(1)).

(2) Subsection (1) applies even if the person seeking the release of the vehicle is not the person suspected of having committed, or found to have committed, the offence for which the vehicle was impounded.

(3) The Commissioner may release the vehicle without requiring payment of the amount described in subsection (1) if the Commissioner considers it appropriate in the circumstances to do so.

(4) If payment of the amount described in subsection (1) is made for the release of the vehicle, that payment extinguishes any liability under section 79E or 80H, as the case requires, to pay the Commissioner for expenses of the impounding even though the payment may not have been made by the person who was liable under that section.

(5) In the case of a vehicle impounded under Subdivision 2 the Commissioner has to refund, to the person who made the

payment, an amount described in subsection (1) that was paid to the Commissioner for the release of the vehicle if —

(a) no charge of committing the offence for which the vehicle was impounded is laid during the period of one year after the day on which the offence is suspected to have been committed; or

(b) during the period described in paragraph (a) a person is charged with committing the offence but the person is acquitted of that offence, or the charge is withdrawn or dismissed.

[Section 80IB inserted: No. 4 of 2007 s. 9; amended: No. 24 of 2008 s. 23 and 25; No. 23 of 2009 s. 22; No. 20 of 2010 s. 12; No. 51 of 2016 s. 38.]

80I. Storage expenses after impounding period ends

(1A) If a vehicle is impounded under Subdivision 2 or on an impounding order and a person is convicted of the offence for which the vehicle was impounded, that person is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all reasonable expenses of the Commissioner in storing the vehicle after the impounding period ends (the ***post-impoundment expenses***).

(1) The Commissioner may refuse to release a vehicle impounded under Subdivision 2 or on an impounding order until the Commissioner is paid the post-impoundment expenses for the vehicle.

(2A) If the vehicle impounded under Subdivision 2 is a substitute vehicle impounded under section 79BCB, the post-impoundment expenses are both the expenses incurred in storing the substitute vehicle and any unpaid expenses incurred in storing the initially impounded vehicle (as defined in section 79BCA(1)).

(2) The post-impoundment expenses are not to include the costs of storing the vehicle for any 24 hour period during which the place where the vehicle is stored is not open to the public.

[Section 80I inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 22; No. 24 of 2008 s. 23 and 25; No. 23 of 2009 s. 23; No. 20 of 2010 s. 13; No. 51 of 2016 s. 39.]

80JA. Disposal, with consent, of vehicles impounded under s. 79 or 79A

(1) In this section —

impounded vehicle means a vehicle that is impounded under section 79 or 79A.

(2) If the Commissioner is satisfied that each person who has an interest in an impounded vehicle has, in accordance with subsection (4), consented to the Commissioner doing so, the Commissioner, on behalf of those persons, may sell or otherwise dispose of the vehicle.

(3) The Commissioner may sell or otherwise dispose of a vehicle under subsection (2) —

(a) even if the impounding period has not elapsed; and

(b) even if the Commissioner may sell the vehicle under section 80J; and

(c) whether or not a charge of an offence for which the vehicle was impounded has been heard or determined by a court; and

(d) whether or not any appeal against the conviction for an offence for which the vehicle was impounded or confiscated has been concluded.

(4) The consent of a person who has an interest in an impounded vehicle to the Commissioner selling or otherwise disposing of the vehicle has no effect unless —

(a) the person has been informed in accordance with subsection (5); and

(b) the consent is in writing and signed by the person; and

(c) the consent is given at least 48 hours after the vehicle is impounded.

(5) The Commissioner must ensure a person who has an interest in an impounded vehicle is informed —

(a) of the effect of this Division in relation to impounding and selling vehicles; and

(b) of the liabilities that this Division imposes on persons for the costs and expenses incurred by the Commissioner.

(6) The Commissioner may require a person who has an interest in an impounded vehicle to provide information to the Commissioner for the purposes of this section in a statutory declaration.

(7) If the Commissioner sells or otherwise disposes of an impounded vehicle under subsection (2) —

(a) the Commissioner must release the vehicle to the buyer; and

(b) the buyer obtains a good title to the vehicle if the person acquires it in good faith and without notice of any failure to comply with this section in relation to the sale or disposal; and

(c) the proceeds of the sale are to be paid in the order of priority provided by subsection (8).

(8) The proceeds of the sale or disposal of a vehicle under subsection (2) are to be paid in the following order of priority —

(a) for expenses incurred in selling the vehicle;

(b) for the expenses specified by the Commissioner as being equivalent to all reasonable expenses of the Commissioner in impounding the vehicle;

(c) if the sale or disposal occurs after the impounding period ends, for expenses (if any) incurred in storing the vehicle after that period ends;

(d) the balance —

(i) if only one person has an interest in the vehicle, to that person;

(ii) if there are 2 or more persons who each have an interest in the vehicle, to each such person according to the proportion that the value of the person's interest bears to the value of the vehicle.

(9) If an impounded vehicle is sold or otherwise disposed of under subsection (2) and —

(a) no charge is laid for the offence for which the vehicle was impounded within 3 months after the date of the offence; or

(b) the charge for that offence is withdrawn or dismissed for want of prosecution; or

(c) the person charged with that offence is acquitted,

the Commissioner must pay to the person or persons referred to in subsection (8)(d) in accordance with that paragraph an amount equal to the amounts paid under subsection (8)(a), (b) and (c).

[Section 80JA inserted: No. 23 of 2009 s. 24; amended: No. 51 of 2016 s. 40.]

80J. Sale of confiscated and uncollected vehicles and items

(1) In this section —

confiscated vehicle means a vehicle that is confiscated under section 80A, as in force at any time, 80C(1) or 80CB(1);

expenses means the reasonable expenses of the Commissioner;

item means an item that was in or on a confiscated vehicle or an uncollected vehicle at the time when —

(a) the vehicle was impounded under Subdivision 2; or

(b) the vehicle was surrendered; or

(c) under section 78C, the vehicle was conveyed to a place for storage,

as is relevant to the case;

uncollected vehicle means a vehicle that was impounded under Subdivision 2 or on an impounding order and not collected within 7 days after the end of the impounding period.

(2) The Commissioner may sell or otherwise dispose of a confiscated vehicle, an uncollected vehicle or an item.

(3) The Commissioner is not to sell or otherwise dispose of a confiscated vehicle or an item unless any appeal against an impounding or confiscation order in respect of the vehicle is determined.

(4) The Commissioner is not to sell or otherwise dispose of an uncollected vehicle or an item unless —

(a) each responsible person is given at least 14 days' written notice of the Commissioner's intention to sell or dispose of the vehicle or item; and

[(b) deleted]

(c) in the case of an item, reasonable steps have been taken to return the item to its owner; and

(d) any proceedings under subsection (5) or (6) in relation to the vehicle or item and any appeal in respect of those proceedings are determined.

(5) The owner of an uncollected vehicle may apply to the Magistrates Court for an order that the sale or disposal of the vehicle under subsection (2) not take place until after such time as is specified in the order but no later than 3 months after the day of the order.

(6) The owner of an item may apply to the Magistrates Court for an order that the item be returned.

(7) Proceeds of the sale or disposal under subsection (2) of a vehicle or item are to be paid in the following order of priority —

(a) for expenses incurred in selling the vehicle or item;

(b) in the case of a confiscated vehicle, for expenses incurred consequent on the confiscation of the vehicle;

(c) in satisfaction of an unpaid amount for which a person is liable under section 79E;

(d) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 79E;

(e) in satisfaction of an unpaid amount for which a person is liable under section 80H;

(f) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 80H;

(g) in satisfaction of an unpaid amount for which a person is liable under section 80I;

(ga) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 80I;

(h) in the case of an uncollected vehicle, in satisfaction of any unpaid amount known to the Commissioner for which the vehicle is nominated in writing as security for the payment of that amount;

(i) in the case of a confiscated vehicle, in satisfaction of any unpaid amount known to the Commissioner —

(i) for which the vehicle was nominated in writing as security for the payment of that amount; and

(ii) that, but for the confiscation of the vehicle, would have been payable to a person other than the person convicted of the offence in respect of which the vehicle was confiscated;

(j) the balance, in the case of a confiscated vehicle —

(i) if the vehicle was confiscated under section 80A, as in force at any time, or 80C(1), to the credit of the Road Trauma Trust Account established in accordance with the *Road Safety Council Act 2002* section 12;

(ii) if the vehicle was confiscated under section 80CB(1), to the credit of the Confiscation Proceeds Account established in accordance with the *Criminal Property Confiscation Act 2000* section 130;

(k) the balance, in the case of an uncollected vehicle or an item, to the Treasurer of the State to be dealt with under the *Unclaimed Money Act 1990* as prescribed retained money.

(8) A person who acquires an uncollected vehicle or an item on a sale or disposal under subsection (2) of the vehicle or item obtains a good title to the vehicle or item if the person acquires it in good faith and without notice of any failure to comply with subsection (4) in relation to the sale or disposal.

[Section 80J inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 10, 23 and 31(1); No. 24 of 2008 s. 22, 23, 24(1) and 25; No. 23 of 2009 s. 25; No. 51 of 2016 s. 41.]

80K. Police expenses more than sale proceeds, liability for

(1) If a vehicle is sold under section 80JA(2) but the proceeds of the sale are insufficient to pay the expenses incurred in selling it, the person because of whose conviction the vehicle was impounded is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

(2) If a confiscated vehicle is sold under section 80J(2) but the proceeds of the sale are insufficient to pay the expenses incurred consequent on the confiscation of the vehicle and the expenses incurred in selling it, the person because of whose conviction the vehicle was confiscated is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

[Section 80K inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 24; No. 23 of 2009 s. 26.]

80LA. Liability for police expenses for uncollected vehicle more than sale proceeds

(1) This section applies if a vehicle is sold under section 80J(2) as an uncollected vehicle and a person (the ***offender***) has been convicted of the offence for which the vehicle was impounded.

(2) If the proceeds of the sale are insufficient to pay the reasonable expenses incurred by the Commissioner in selling the vehicle (the ***selling expenses***), the offender is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to the selling expenses that remain to be recovered.

[Section 80LA inserted: No. 23 of 2009 s. 27; amended: No. 51 of 2016 s. 42.]

80L. Transfer of vehicle licence to State in some cases

(1) If a licensed vehicle is confiscated on an order under section 80A, as in force at any time, 80C(1) or 80CB(1) or is to be sold as an uncollected vehicle under section 80J(2) —

(a) the Commissioner of Police is to give notice in writing to the CEO of that fact; and

(b) the CEO is to transfer the vehicle's licence to the State of Western Australia.

(2) The *Road Traffic (Vehicles) Act 2012* section 10(1)(a), (2), (3), (4) and (5) do not apply if the CEO is given notice under subsection (1)(a).

[Section 80L inserted: No. 10 of 2004 s. 13; amended: No. 4 of 2007 s. 25 and 33; No. 8 of 2012 s. 25 and 36; No. 51 of 2016 s. 43.]

80M. Compensation for certain vehicles or items disposed of under s. 80J

(1) In this section —

former owner, in relation to an uncollected vehicle sold or otherwise disposed of under section 80J, or an item in or on the vehicle, means the owner of the vehicle or item before the vehicle or item was sold or otherwise disposed of;

item has the meaning given in section 80J(1);

uncollected vehicle has the meaning given in section 80J(1).

(2) The State is liable to pay compensation to the former owner of an uncollected vehicle, or an item, if the vehicle or item is sold or otherwise disposed of under section 80J and —

(a) no charge of committing the offence for which the vehicle was impounded is laid during the period of one year after the day on which the offence is suspected to have been committed; or

(b) during the period described in paragraph (a), a person is charged with committing the offence but the person is acquitted of that offence, or the charge is withdrawn or dismissed.

(3) If, before the end of the period referred to in subsection (2)(a), the Commissioner of Police is satisfied that it is unlikely that a person will be charged with committing the offence for which the uncollected vehicle was impounded, the former owner of the vehicle, or item, may be paid compensation.

(4) A liability that the State has under subsection (2) in relation to a an uncollected vehicle, or item, is reduced by an amount paid under subsection (3) in relation to the vehicle or item.

(5) The State may recover from a person an amount equal to the amount of compensation paid to the person under subsection (2) or (3) in a court of competent jurisdiction as a debt due to the State if —

(a) a person is, after the payment of the compensation, convicted of the offence for which the uncollected vehicle was impounded; and

(b) any appeal against the conviction is determined and the conviction is not quashed or overturned.

(6) The State is liable to pay compensation to the former owner of an uncollected vehicle, or an item, if —

(a) a person was convicted of the offence for which the vehicle was impounded; and

(b) the person is subsequently acquitted of the offence; and

(c) at the time of the acquittal —

(i) no other person has been convicted of the offence for which the vehicle was impounded; or

(ii) if a person has been charged with the offence for which the vehicle was impounded, the person is

acquitted of the offence or the charge is withdrawn or dismissed.

(7) The amount of compensation to be paid under this section —

(a) for an uncollected vehicle, is limited to the market value of the vehicle at the time it was impounded; and

(b) for an item, is limited to the market value of the item at the time the vehicle was impounded.

(8) For the purposes of subsection (7), the market value of an uncollected vehicle, or an item, is —

(a) the market value agreed between the State and the former owner of the vehicle or item; or

(b) if no such agreement exists, the market value of the vehicle or item as determined by a court of competent jurisdiction.

[Section 80M inserted: No. 51 of 2016 s. 44.]

Subdivision 5 — Impounding and confiscation of unlicensed motor cycles used on roads

[Heading inserted: No. 51 of 2016 s. 45.]

80N. Terms used

In this Subdivision —

immediate family, in relation to a person, means a spouse or de facto partner, child, grandchild, sibling, parent or grandparent of the person;

surrender notice has the meaning given in section 80P(2);

suspected use, in relation to a motor cycle impounded under section 80O(2) or 80Q(1) or (2), means the use of the motor cycle in circumstances described in section 80O(1)(a) to (c).

[Section 80N inserted: No. 51 of 2016 s. 45.]

80O. Police power to impound unlicensed motor cycle used on road

(1) This section applies if a police officer reasonably suspects that —

(a) a motor cycle is being used on a road; and

(b) the use constitutes an offence under the *Road Traffic (Vehicles) Act 2012* section 4(2); and

(c) the motor cycle was not, at any time during the period of 2 years immediately before the day of the use —

(i) licensed under the *Road Traffic (Vehicles) Act 2012*; or

(ii) the subject of a permit, or number plates, issued under the *Road Traffic (Vehicles) Act 2012* section 13.

(2) The police officer may seize and impound the motor cycle within a period of 28 days after the day of its suspected use.

(3) The Commissioner is to ensure that, as soon as practicable after a motor cycle is impounded under subsection (2), notice of the impounding is given to —

(a) a responsible person for the motor cycle; and

(b) if that person has not reached the age of 18 years, a responsible adult, as defined in the *Young Offenders Act 1994*, for the person.

(4) The notice must be in an approved form and specify the following —

(a) the time when the motor cycle was impounded;

(b) the address of the place where the motor cycle is stored;

(c) sufficient details of the motor cycle to identify it;

(d) the time and place of the suspected use of the motor cycle;

(e) sufficient other details of the suspected use to identify the grounds for giving the notice;

(f) if known, the name of the driver of the motor cycle during its suspected use.

(5) The notice must also include the following —

(a) a statement to the effect that this Subdivision contains law about the notice and the impounding of the motor cycle;

(b) a statement as to the effect of sections 80S, 80T and 80U;

(c) a statement as to the effect that if the motor cycle is confiscated under section 80T, it may be disposed of under section 80V;

(d) a statement as to the effect of section 80W.

[Section 80O inserted: No. 51 of 2016 s. 45.]

80P. Surrender notice

(1) This section applies if —

(a) a police officer reasonably suspects, in relation to a motor cycle, that the motor cycle has been used in circumstances described in section 80O(1)(a) to (c); and

(b) it is impracticable for the police officer to impound the motor cycle under section 80O(2).

(2) The police officer may give, personally or by registered post, a notice (a ***surrender notice***) to —

(a) a responsible person for the motor cycle; and

(b) if that person has not reached the age of 18 years, a responsible adult, as defined in the *Young Offenders Act 1994*, for the person.

(3) The surrender notice cannot be given more than 28 days after the day of the suspected use of the motor cycle.

(4) The surrender notice must be in an approved form and contain a statement to the effect that, because of the suspected use of the motor cycle, it is required to be surrendered to the Commissioner for impounding.

(5) The surrender notice must specify the following —

(a) sufficient details of the motor cycle to identify it;

(b) the time and place of the suspected use of the motor cycle;

(c) sufficient other details of the suspected use to identify the grounds for giving the notice;

(d) if known, the name of the driver of the motor cycle during its suspected use;

(e) the place at which, and the time of day during which, the motor cycle and its keys are required to be surrendered under this Subdivision;

(f) the last day on or before which the motor cycle and its keys are required to be surrendered, being the 7th day after the day the surrender notice has been given.

(6) The surrender notice must also include the following —

(a) a statement to the effect that this Subdivision contains law about the notice and the impounding of the motor cycle;

(b) a statement as to the effect of sections 80Q(1) and (2), 80S, 80T and 80U;

(c) a statement as to the effect that if the motor cycle is confiscated under section 80T, it may be disposed of under section 80V;

(d) a statement as to the effect of section 80W.

[Section 80P inserted: No. 51 of 2016 s. 45.]

80Q. Consequences of surrender notice

(1) If a responsible person for a motor cycle who is given a surrender notice surrenders the motor cycle according to the notice, the motor cycle must be impounded for a period that commences at the time when the motor cycle is surrendered.

(2) If a responsible person for a motor cycle who is given a surrender notice fails to surrender the motor cycle according to the notice, the motor cycle must be impounded for a period that commences at the time when a police officer takes possession of the motor cycle for the purpose of impounding it.

(3) A person who is given a surrender notice in relation to a motor cycle commits an offence if the person fails to comply with the notice.

Penalty for this subsection: a fine of 50 PU.

(4) A person who is given a surrender notice in relation to a motor cycle commits an offence if, without the authority of a court order, the person —

(a) disposes of an interest that the person has in the motor cycle; or

(b) does anything, or causes or permits another person to do anything, that results or will result in a reduction in the value of the motor cycle.

Penalty for this subsection: a fine of 50 PU.

[Section 80Q inserted: No. 51 of 2016 s. 45.]

80R. Senior police officer to be informed if vehicle impounded

(1) A police officer, other than a senior police officer, who seizes and impounds a motor cycle under section 80O(2) or gives a surrender notice under section 80P(2) must, as soon as

practicable after the notice is given, inform a senior police officer of the following —

(a) the date the seizure and impounding or the giving of the notice, as the case requires;

(b) the police officer's grounds for suspecting the matters referred to in section 80O(1)(a) to (c);

(c) whether or not the motor cycle has been seized or surrendered.

(2) A senior police officer who is informed under subsection (1) must make enquiries as to whether there were reasonable grounds for suspecting the matters referred to in section 80O(1)(a) to (c).

(3) If the senior police officer is not satisfied that there were reasonable grounds for suspecting the matters referred to in section 80O(1)(a) to (c), the senior police officer must, as soon as practicable —

(a) if the motor cycle has been impounded under section 80P, cancel the surrender notice and give a written notice of the cancellation to each person to whom the notice was given; and

(b) ensure that the motor cycle is returned to a responsible person for the motor cycle, or if no responsible person is available, to the driver of the motor cycle at the time of its suspected use.

[Section 80R inserted: No. 51 of 2016 s. 45.]

80S. Claims of right to possession

(1) A person may, within 10 days after the day on which a motor cycle is impounded under section 80O(2) or 80Q(1) or (2), give to the Commissioner a claim that —

(a) the person —

(i) is a responsible person for the motor cycle; and

(ii) is not a member of the driver's immediate family; and

(iii) was not the driver of the motor cycle at the time of the suspected use;

and

(b) the suspected use of the motor cycle occurred without the knowledge and acquiescence of the person.

(2) The claim is to be in an approved form.

(3) If the Commissioner accepts the claim, the Commissioner must, as soon as practicable, ensure that the motor cycle is returned to the claimant.

(4) If the Commissioner rejects a claim, the Commissioner must, as soon as practicable, give a written notice of the rejection to the person making the claim.

[Section 80S inserted: No. 51 of 2016 s. 45.]

80T. Confiscation

(1) A motor cycle impounded under section 80O(2) or 80Q(1) or (2) is confiscated on the later of the following —

(a) if the Commissioner does not receive a claim under section 80S — the 14th day after the motor cycle is impounded; or

(b) if the Commissioner receives one or more claims under section 80S but rejects all of them — the day after the last of those claims is rejected.

(2) If a motor cycle is confiscated under subsection (1), the property in the motor cycle vests absolutely in the State, free from all interests, rights, titles or claims in or to the ownership or possession of the motor cycle.

[Section 80T inserted: No. 51 of 2016 s. 45.]

80U. Liability for police expenses

If a motor cycle is confiscated under section 80T(1), the driver of the motor cycle at the time of its suspected use is liable to pay to the Commissioner an amount specified by the Commissioner as being equivalent to all reasonable expenses of the Commissioner in —

(a) impounding the motor cycle; and

(b) storing the motor cycle after it has been confiscated but before it has been sold or otherwise disposed of under section 80V.

[Section 80U inserted: No. 51 of 2016 s. 45.]

80V. Sale or other disposal of confiscated motor cycle and items on it

(1) In this section —

confiscated motor cycle means a motor cycle that is confiscated under section 80T(1);

item, in relation to a confiscated motor cycle, means an item that was in or on the motor cycle at the time when it was impounded under this Subdivision.

(2) The Commissioner may sell or otherwise dispose of a confiscated motor cycle or an item.

(3) The owner of an item may apply to the Magistrates Court for an order that the item be returned.

(4) Proceeds of the sale or disposal under subsection (2) of a confiscated motor cycle or item are to be paid in the following order of priority —

(a) for expenses incurred in selling the motor cycle or item;

(b) for expenses incurred consequent on the confiscation of the motor cycle;

(c) in satisfaction of an unpaid amount for which a person is liable under section 80U;

(d) in satisfaction of an unpaid amount of a judgment debt arising out of a liability under section 80U;

(e) in satisfaction of any unpaid amount known to the Commissioner —

(i) for which the motor cycle was nominated in writing as security for the payment of that amount; and

(ii) that, but for the confiscation of the motor cycle, would have been payable to a person other than the person convicted of the offence in respect of which the motor cycle was confiscated;

(f) the balance, to the credit of the Road Trauma Trust Account established in accordance with the *Road Safety Council Act 2002* section 12.

[Section 80V inserted: No. 51 of 2016 s. 45.]

80W. Liability for police expenses exceeding sale proceeds

If a motor cycle or item is sold under section 80V(2) but the proceeds of the sale are insufficient to pay the expenses specified in section 80U, the driver of the motor cycle at the time of its suspected use is liable to pay to the Commissioner the difference between the amount of those expenses and the proceeds of the sale.

[Section 80W inserted: No. 51 of 2016 s. 45.]

*[**81.** Deleted: No. 76 of 1996 s. 17.]*

Part VA — Events on roads

[Heading inserted: No. 64 of 1988 s. 4.]

81A. Terms used

In this Part, unless the contrary intention appears —

event —

(a) includes a race meeting or speed test; and

(b) does not include an event that is a public meeting or procession under the *Public Order in Streets Act 1984*;

order means an order granted under this Part;

road includes part of a road.

[Section 81A inserted: No. 64 of 1988 s. 4; amended: No. 70 of 2004 s. 82.]

81B. Order for road closure for event, application for

(1) A person who, or body which, proposes to hold an event on a road, or to conduct an event which will proceed through a road, and wishes that road to be closed for the duration of the event, may make written application in the prescribed manner and form to the Commissioner of Police setting out the proposal and applying for an order in respect of a road closure for that event.

(2) An application referred to in subsection (1) —

(a) shall be made not later than the prescribed time before the date of the proposed event or within such shorter period as may be agreed by the Commissioner of Police; and

(b) may be required to be verified in a manner acceptable to the Commissioner of Police.

[Section 81B inserted: No. 64 of 1988 s. 4; amended: No. 76 of 1996 s. 20(2).]

81C. Order for road closure for event, making

(1) The Commissioner of Police shall have regard to the information furnished in any application made under section 81B and any other information available to it in relation to the proposed event and may —

(a) subject to subsection (2), make an order directing the road to be closed; or

(b) refuse to make an order directing the road to be closed.

(2) The Commissioner of Police shall not make an order for a road closure unless —

(a) the Commissioner of Police is satisfied that the prescribed conditions relating to an application for a road closure have been met; and

(b) the approval of the local government of each district within which the road is situated has been obtained; and

(c) where the road is vested in the Commissioner of Main Roads, the approval of the Commissioner has been obtained.

(3) An order made by the Commissioner of Police shall be subject to such conditions and limitations as are specified by the Commissioner of Police.

(4) A copy of an order made by the Commissioner of Police shall be forwarded to —

(a) the applicant for the order; and

(b) the local government of each district within which the road concerned is situated; and

(c) where a road to which the order relates is vested in the Commissioner of Main Roads, the Commissioner of Main Roads.

[Section 81C inserted: No. 64 of 1988 s. 4; amended: No. 14 of 1996 s. 4; No. 76 of 1996 s. 20(2).]

81D. Road closure, how effected by local government

A road closure under this Part shall be effected by the erection by the local government for the district within which the road concerned is situated of such barriers, signs and other equipment as are prescribed.

[Section 81D inserted: No. 64 of 1988 s. 4; amended: No. 14 of 1996 s. 4.]

81E. Road closure order, effect of

(1) Subject to —

(a) any directions given by a member of the Police Force under section 9A of the *Public Order in Streets Act 1984*; and

(b) the provisions of subsection (2),

where the holding or conduct of an event on a closed road substantially conforms with the terms of the order relating to it, a person participating in that event who observes such conditions and limitations as are specified in the order may position himself in, or proceed over, any road referred to in the order and is not, by reason of any thing done or omitted to be done by him for the purposes only of his participating in that event, guilty of any offence against the provisions of this Act or any other enactment regulating the movement of traffic and pedestrians, or relating to the obstruction of a street.

(2) An order made under this Part shall be deemed to contain a condition requiring persons participating in the event on the closed road to which it relates not to obstruct the free passage of any ambulance, fire brigade vehicle or police vehicle, and where any person contravenes that condition the holding and conduct of that event shall be taken not to have conformed with the order.

(3) Subject to the provisions of this Part and any order granted in relation to a road, a road closed pursuant to this Part remains a "road" for the purposes of this Act and any other enactment.

[Section 81E inserted: No. 64 of 1988 s. 4; amended: No. 70 of 2004 s. 82.]

81F. Offences

(1) Where a person at, or in relation to, an event held on a road closed pursuant to an order under this Part —

(a) obstructs the free passage of any ambulance, fire brigade vehicle or police vehicle or, otherwise than in the manner or to the extent authorised by the order relating to the road closed for that event, impedes or disrupts the use by members of the public in general of that road; or

(b) otherwise than in the manner or to the extent authorised by the order relating to the road closed for that event, drives, takes or uses any vehicles on to or on that road; or

(c) incites any other person so to do,

commits an offence.

Penalty: 12 PU.

(2) Where, in any proceeding for an offence against subsection (1), it is alleged in the charge that —

(a) an order had been granted under this Part to a person or body named in the order; or

(b) a road was closed pursuant to an order,

it shall not be necessary for the prosecutor to prove the facts so alleged in the absence of evidence to the contrary.

(3) When in any proceedings for an offence against this Act or any other enactment regulating the movement of traffic or pedestrians or relating to the obstruction of a road, the accused satisfies the court that a road closure was authorised under this

Part by an order purporting to relate to it, it shall be presumed, in the absence of evidence to the contrary, that —

(a) no irregularity occurred on, or in relation to, the grant of the order; and

(b) the road closure substantially conformed with the terms of the order.

[Section 81F inserted: No. 64 of 1988 s. 4; amended: No. 50 of 1997 s. 13; No. 84 of 2004 s. 80 and 82.]

Part 5B — Radar detectors

[Heading inserted: No. 27 of 2020 s. 39.]

81G. Offence to drive motor vehicle with radar detector fitted to, within or on vehicle

(1) In this section —

radar detector means a device or other equipment that is capable of detecting the operation of —

(a) an average speed detection system as defined in the *Road Traffic (Administration) Act 2008* section 117B(1); or

(b) speed measuring and recording equipment as defined in the *Road Traffic (Administration) Act 2008* section 117(1); or

(c) speed measuring equipment as defined in the *Road Traffic (Administration) Act 2008* section 117(1); or

(d) visual detection equipment as defined in the *Road Traffic (Administration) Act 2008* section 117(1).

(2) A person must not drive a motor vehicle on a road if the vehicle —

(a) is fitted with a radar detector; or

(b) has a radar detector within or on the vehicle.

Penalty for this subsection:

(a) for a first offence, a fine of 64 PU;

(b) for a second or subsequent offence, a fine of 96 PU.

[Section 81G inserted: No. 27 of 2020 s. 39; amended: No. 15 of 2024 s. 73.]

Part 6 — Unlawful interference with motor vehicles

[Heading inserted: No. 38 of 2020 s. 4.]

*[**82-87.** Deleted: No. 8 of 2012 s. 26.]*

*[**88.** Deleted: No. 50 of 1997 s. 10.]*

*[**89.** Deleted: No. 70 of 2004 s. 82.]*

90. Unlawfully interfering with parts of motor vehicles

Any person who unlawfully interferes with the mechanism or parts of any motor vehicle shall be guilty of an offence under this Act.

Penalty: For a first offence, 8 PU.

For a subsequent offence, 16 PU.

[Section 90 amended: No. 11 of 1988 s. 24; No. 78 of 1995 s. 147; No. 50 of 1997 s. 13; No. 50 of 2003 s. 92(3).]

Part 6A — Immobilisation, towing and detention of motor vehicles

[Heading inserted: No. 38 of 2020 s. 5.]

Division 1 — Preliminary

[Heading inserted: No. 38 of 2020 s. 5.]

91. Terms used

In this Part —

authorised enforcement action has the meaning given in section 93;

business day means a day that is not a Saturday, Sunday or public holiday;

commencement day means the day on which the *Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020* section 5 comes into operation;

consent has the meaning given in section 92;

controller, in relation to premises, means a person who is in occupation or control of the premises, or is entitled to be in occupation or control of the premises, whether or not the person owns the premises;

load, in relation to a motor vehicle and a tow truck, means to lift or otherwise move the motor vehicle onto the tow truck, or to secure the motor vehicle to the tow truck, or both, so that the motor vehicle is ready to be removed by the tow truck;

on-site release charge has the meaning given in section 100(2);

parked, in relation to a motor vehicle, means parked, stood or left at premises;

parking agreement —

(a) means an agreement, however formed, for the terms and conditions on which a motor vehicle may be parked at premises; but

(b) does not include an agreement that deals with parking only as a matter that is ancillary or incidental to the main purpose of the agreement;

parking facility means a facility for the parking of motor vehicles where entry to, or exit from, the facility is controlled by permanent infrastructure;

public entity means —

(a) an agency or organisation, as those terms are defined in the *Public Sector Management Act 1994* section 3(1); or

(b) a body (whether incorporated or not), or the holder of an office, that is established or continued for a public purpose under a written law; or

(c) a local government, regional local government or regional subsidiary; or

(d) a person employed in, authorised by or engaged for the purposes of, a person or body referred to in paragraphs (a) to (c); or

(e) a person or body, or a person or body in a class of persons or bodies, prescribed by the regulations;

relevant person, for a motor vehicle, means each of the following —

(a) a person who is entitled to the immediate possession of the vehicle;

(b) the driver of the vehicle or, in relation to a vehicle that is parked or was parked before it was towed, loaded or partially loaded onto a tow truck, the person who was driving or otherwise in charge of the vehicle when it was parked;

security interest, in a motor vehicle —

(a) means a security interest (as defined in the *Personal Property Securities Act 2009* (Commonwealth) section 12) in the vehicle; and

(b) includes a possessory lien or pledge over the vehicle; and

(c) despite paragraphs (a) and (b), does not include anything referred to in those paragraphs that arises only under a parking agreement or only in connection with a motor vehicle being parked at premises;

security power, in relation to a motor vehicle, means a power over the vehicle that a person is entitled to exercise as the holder of a security interest in the vehicle;

storage charges means any charges imposed on a relevant person for a motor vehicle for or in relation to any of the following —

(a) the storage, release or viewing of the vehicle after it has been towed;

(b) access to the vehicle after it has been towed;

(c) access to personal property that is or was in the vehicle after it has been towed;

storage yard means premises used for storing motor vehicles that have been towed;

tow includes to —

(a) carry; and

(b) lift and tow; and

(c) lift and carry; and

(d) lift for the purpose of towing;

towing arrangement has the meaning given in section 94;

towing charges means any charges, other than storage charges, imposed on a relevant person for a motor vehicle for or in relation to towing the vehicle including, without limitation, charges for any of the following —

(a) anything done in preparation for towing the vehicle, including travelling to premises and taking steps to find a relevant person for the vehicle;

(b) loading the vehicle onto a tow truck;

(c) towing the vehicle;

towing service provider has the meaning given in section 94;

tow truck means a motor vehicle used or intended to be used to tow another motor vehicle;

tow truck driver means a person who drives a tow truck for the purpose of towing motor vehicles;

vehicle crash means a collision or impact resulting in damage to a vehicle.

[Section 91 inserted: No. 38 of 2020 s. 5; amended: No. 37 of 2024 s. 168.]

92. Term used: consent

(1) A motor vehicle is immobilised, towed or detained with the ***consent*** of a relevant person for the vehicle if, prior to the immobilisation, towing or detention occurring —

(a) a relevant person or a person who appears to be a relevant person gives express consent to the immobilisation, towing or detention; or

(b) a relevant person or a person who appears to be a relevant person enters into an agreement (other than a parking agreement) under which the immobilisation, towing or detention is expressly or impliedly authorised.

(2) For the purposes of subsection (1)(a), the express consent of the relevant person or the person who appears to be a relevant person must —

(a) be given by express words; and

(b) relate to the particular occurrence of immobilisation, towing or detention, rather than being a general consent to immobilisation, towing or detention or to

immobilisation, towing or detention in specified circumstances.

[Section 92 inserted: No. 38 of 2020 s. 5.]

93. Term used: authorised enforcement action

A motor vehicle is immobilised, towed or detained in the exercise of ***authorised enforcement action*** if the immobilisation, towing or detention is done —

(a) by a police officer exercising a function of the officer or by a person assisting a police officer in the exercise of a function of the officer; or

(b) under and in accordance with an enforcement warrant issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*; or

(c) under and in accordance with an order or warrant issued by a court; or

(d) under and in accordance with an Act, or subsidiary legislation, of the Commonwealth.

[Section 93 inserted: No. 38 of 2020 s. 5.]

94. Term used: towing arrangement

(1) A ***towing arrangement*** is an agreement between a controller of premises and another person (the ***towing service provider***) —

(a) by which the controller requests or permits the towing of 1 or more motor vehicles parked at the premises by the towing service provider or a tow truck driver authorised by the towing service provider; and

(b) that —

(i) meets the requirements of subsection (2); or

(ii) is approved, or in a class of agreements approved, under subsection (3).

(2) For the purposes of subsection (1)(b)(i), the agreement must —

(a) be in the form approved by the CEO; and

(b) be signed by or on behalf of the controller; and

(c) provide for a call-out charge to be paid by the controller in the event that a tow truck driver is called to the premises to tow a vehicle but the vehicle is not towed and no on-site release charge is paid.

(3) The CEO may, in writing, approve for the purposes of subsection (1)(b)(ii) an agreement, or a class of agreements, made before commencement day in relation to towing.

(4) A towing arrangement may relate to 1 or more specified vehicles or may be a general arrangement requesting or permitting the towing of vehicles parked at the premises in circumstances set out in the arrangement.

[Section 94 inserted: No. 38 of 2020 s. 5.]

Division 2 — Immobilisation of motor vehicles

[Heading inserted: No. 38 of 2020 s. 5.]

95. Motor vehicles not to be immobilised

(1) A person must not immobilise a parked motor vehicle by attaching to, or placing near, the vehicle —

(a) a wheel clamp; or

(b) another device that effectively immobilises the vehicle, including by making it unsafe or impracticable for a person to drive the vehicle.

Penalty for this subsection: a fine of 100 PU.

(2) Subsection (1) does not apply if the vehicle is immobilised —

(a) by, or with the consent of, a relevant person for the vehicle; or

(b) in the exercise of authorised enforcement action; or

(c) in the exercise of a security power; or

(d) by a public entity in the exercise of a function under and in accordance with a written law.

[Section 95 inserted: No. 38 of 2020 s. 5.]

Division 3 — Towing of motor vehicles

[Heading inserted: No. 38 of 2020 s. 5.]

Subdivision 1 — Towing regulated by this Division

[Heading inserted: No. 38 of 2020 s. 5.]

96. Application of Division

(1) This Division applies in relation to —

(a) the towing of a parked motor vehicle if the towing is at the request of, or otherwise permitted by, a controller of the premises at which the vehicle is parked; and

(b) anything done in preparation for towing of the kind referred to in paragraph (a); and

(c) the storage and release of a motor vehicle towed or to be towed as referred to in paragraph (a); and

(d) charges for or in relation to anything referred to in paragraph (a), (b) or (c).

(2) This Division does not apply in relation to —

(a) the towing of a motor vehicle —

(i) away from a place on a road where the vehicle has been involved in a vehicle crash or has broken down or become bogged or stranded; or

(ii) by, or with the consent of, a relevant person for the vehicle; or

(iii) in the exercise of authorised enforcement action; or

(iv) in the exercise of a security power; or

(v) under and in accordance with a written law; or

(vi) in circumstances prescribed by the regulations;

or

(b) anything done in preparation for towing of the kind referred to in paragraph (a); or

(c) the storage and release of a motor vehicle towed or to be towed as referred to in paragraph (a); or

(d) charges for or in relation to anything referred to in paragraph (a), (b) or (c).

(3) Subsection (1) is subject to subsection (2).

[Section 96 inserted: No. 38 of 2020 s. 5; amended: No. 37 of 2024 s. 169.]

Subdivision 2 — Towing

[Heading inserted: No. 38 of 2020 s. 5.]

97. Towing parked motor vehicles prohibited unless requirements satisfied

(1) A tow truck driver must not tow a parked motor vehicle from the premises at which it is parked (the ***relevant premises***) unless —

(a) there is a towing arrangement in effect requesting or permitting the tow truck driver to tow the vehicle; and

(b) the tow truck driver has notified the CEO, in a manner and form approved by the CEO —

(i) that the vehicle is to be towed; and

(ii) of the details prescribed by the regulations in relation to the vehicle;

and

(c) the tow truck driver has recorded the details prescribed by the regulations in relation to the vehicle in accordance with the requirements of the regulations; and

(d) if the regulations require a sign to be displayed at the relevant premises — a sign complying with the requirements of the regulations was displayed at the relevant premises when the vehicle was parked; and

(e) the vehicle has been parked at the relevant premises for a period that is no shorter than the waiting period prescribed by the regulations; and

(f) either —

(i) the tow truck driver cannot, after taking reasonable steps, find a relevant person for the vehicle; or

(ii) if a relevant person for the vehicle is found — the relevant person cannot or will not remove the vehicle from the relevant premises, or the tow truck driver reasonably believes that the relevant person cannot or will not remove the vehicle from the relevant premises, within a reasonable time.

Penalty for this subsection: a fine of 100 PU.

(2) Despite subsection (1), if the vehicle is parked in a position where it is causing a hazard or unreasonable obstruction, the requirements in subsection (1)(d), (e) and (f) do not apply.

(3) Subsection (1)(f)(i) is taken to be satisfied if the tow truck driver reasonably believes that a controller of the relevant premises has taken reasonable steps to find a relevant person for the vehicle and cannot find a relevant person.

(4) A controller of premises must not give any information to a tow truck driver in relation to a matter referred to in subsection (1) that the controller knows is false or misleading in a material particular.

Penalty for this subsection: a fine of 100 PU.

[Section 97 inserted: No. 38 of 2020 s. 5.]

98. Regulations relating to towing requirements

(1) Regulations may make provision for or in relation to the following —

(a) the disclosure or publication of information obtained by the CEO under section 97(1)(b);

(b) requirements to retain and produce records made in accordance with section 97(1)(c).

(2) Regulations made for the purposes of section 97(1)(d) may provide —

(a) that motor vehicles must not be towed from premises of a prescribed kind unless a sign is displayed; and

(b) for requirements that apply to signs referred to in paragraph (a).

(3) Regulations made for the purposes of section 97(1)(e) may prescribe different waiting periods that apply to motor vehicles parked in different circumstances, including by reference to any sign displayed at the relevant premises.

(4) For the purposes of section 97(1)(f), regulations may prescribe the steps that a person must take in order to have taken reasonable steps to find a relevant person for a motor vehicle and may prescribe different steps that must be taken in different circumstances.

[Section 98 inserted: No. 38 of 2020 s. 5.]

99. Release of motor vehicle that is being loaded onto tow truck

(1) This section applies if —

(a) the process of loading a motor vehicle that was parked at premises onto a tow truck has begun but has not been completed; and

(b) a relevant person for the vehicle agrees to remove the vehicle from the premises within a reasonable time.

(2) The tow truck driver for the tow truck must immediately release the vehicle to the relevant person without charge.

Penalty for this subsection: a fine of 100 PU.

[Section 99 inserted: No. 38 of 2020 s. 5.]

100. Release of motor vehicle that has been loaded onto tow truck

(1) This section applies if —

(a) a motor vehicle that was parked at premises (the ***relevant premises***) —

(i) has been loaded onto a tow truck; but

(ii) has not been removed from the relevant premises;

and

(b) a relevant person for the vehicle is present.

(2) The tow truck driver for the tow truck must inform the relevant person, before removing the vehicle, that if the relevant person pays an amount (the ***on-site release charge***) stated by the tow truck driver, the vehicle will be immediately released.

Penalty for this subsection: a fine of 100 PU.

(3) If, on being informed under subsection (2), the relevant person pays the tow truck driver the on-site release charge, the tow truck driver must immediately release the vehicle to the relevant person.

Penalty for this subsection: a fine of 100 PU.

(4) The tow truck driver must not state an amount for an on-site release charge that exceeds the amount determined in accordance with the regulations.

Penalty for this subsection: a fine of 100 PU.

(5) If a motor vehicle is released under subsection (3), a person must not impose any further towing charges in relation to the vehicle.

Penalty for this subsection: a fine of 100 PU.

[Section 100 inserted: No. 38 of 2020 s. 5.]

101. Motor vehicle must be towed by most direct route to approved storage yard

A tow truck driver who tows a motor vehicle must tow the vehicle by the most direct route, and without taking longer than is reasonably necessary, to the nearest suitable storage yard approved for the tow truck driver under section 104(3).

Penalty: a fine of 40 PU.

[Section 101 inserted: No. 38 of 2020 s. 5.]

102. Copy of towing arrangement must be given

(1) If a motor vehicle has been towed using a tow truck, or loaded or partially loaded onto a tow truck, a relevant person for the vehicle, or a police officer, may request a copy of the towing arrangement in relation to the towing from any or all of the following —

(a) the tow truck driver;

(b) if the tow truck driver is not the towing service provider who is party to the towing arrangement — that towing service provider;

(c) if the vehicle is or was stored in a storage yard after being towed — the person in charge of the storage yard.

(2) A person to whom a request is made under subsection (1) must, as soon as is practicable but in any event within 5 business days after the day on which the request is made, give the relevant person or police officer a copy of the towing arrangement.

Penalty for this subsection: a fine of 100 PU.

(3) A request under subsection (1) may be made whether or not the vehicle has been released.

(4) A towing service provider must, for each towing arrangement to which the towing service provider is a party, ensure that the following persons are given, or have access to, the towing arrangement —

(a) each tow truck driver requested or permitted to tow motor vehicles under the towing arrangement;

(b) the person in charge of each storage yard that is approved under section 104(3) for a tow truck driver referred to in paragraph (a).

Penalty for this subsection: a fine of 40 PU.

(5) Regulations may make provision for or in relation to the disclosure or publication of towing arrangements or the information contained in towing arrangements.

[Section 102 inserted: No. 38 of 2020 s. 5.]

103. Release from storage

(1) This section applies if a motor vehicle that has been towed is stored in a storage yard.

(2) If a relevant person for the vehicle asks the person in charge of the storage yard to release the vehicle, the person in charge must release the vehicle as soon as is practicable but in any event no later than 4 hours after the request is made.

Penalty for this subsection: a fine of 100 PU.

(3) For the purposes of determining when the 4-hour period referred to in subsection (2) expires, only time between 9 am and 5 pm on a business day is to be counted.

(4) Regulations may prescribe the steps that must be taken to release the vehicle for the purposes of subsection (2).

[Section 103 inserted: No. 38 of 2020 s. 5.]

*[**103A, 103B.** Deleted: No. 54 of 2006 s. 30.]*

104. Approval of storage yards

(1) A person may apply to the CEO for approval of 1 or more storage yards to be used to store vehicles towed by a tow truck driver or class of tow truck drivers.

(2) The application must —

(a) be in the form approved by the CEO; and

(b) be accompanied by the fee (if any) prescribed by the regulations; and

(c) comply with any other requirements prescribed by the regulations.

(3) The CEO may, by written notice, grant or refuse to grant the approval.

(4) Regulations may prescribe matters that the CEO must consider when granting or refusing to grant an approval under subsection (3).

[Section 104 inserted: No. 38 of 2020 s. 5.]

*[**104A-104T.** Deleted: No. 8 of 2012 s. 28.]*

Subdivision 3 — Charges for towing and storage

[Heading inserted: No. 38 of 2020 s. 5.]

105. Towing charges

(1) A person commits an offence if the total amount of towing charges imposed by the person for or in relation to the towing of a motor vehicle exceeds the amount (the ***maximum towing charges amount***) determined in accordance with the regulations.

Penalty for this subsection: a fine of 40 PU.

(2) Regulations made for the purposes of subsection (1) may provide for different maximum towing charges amounts that apply in different circumstances, including by reference to the amount of work undertaken or distance travelled.

[Section 105 inserted: No. 38 of 2020 s. 5.]

105A. Storage charges

(1) A person commits an offence if the total amount of storage charges imposed by the person in relation to a motor vehicle that has been towed exceeds the amount (the ***maximum storage charges amount***) determined in accordance with the regulations.

Penalty for this subsection: a fine of 40 PU.

(2) Regulations made for the purposes of subsection (1) may provide for different maximum storage charges amounts that apply in different circumstances.

[Section 105A inserted: No. 38 of 2020 s. 5.]

105B. Regulations may prohibit or restrict towing and storage charges

Without limiting sections 105 and 105A, the regulations may make provision for or in relation to the imposition of towing charges and storage charges, including by —

(a) prohibiting the imposition of towing charges and storage charges of prescribed kinds or in prescribed circumstances; and

(b) providing for requirements that must be complied with before towing charges and storage charges of prescribed kinds may be imposed.

[Section 105B inserted: No. 38 of 2020 s. 5.]

105C. Liability for towing and storage charges

(1) This section applies if a motor vehicle has been towed in compliance with the requirements of this Division.

(2) A relevant person for the vehicle is liable for the payment of towing charges and storage charges imposed in relation to the vehicle in compliance with the requirements of this Division and the regulations.

(3) If a relevant person who pays an amount referred to in subsection (2) was not driving or otherwise in charge of the vehicle when the vehicle was parked before it was towed, the person driving or otherwise in charge of the vehicle is liable to that relevant person for the amount paid by that relevant person.

(4) If a person (the ***debtor***) does not pay an amount required by this section, the person entitled to be paid may recover the amount in a court of competent jurisdiction as a debt due from the debtor.

[Section 105C inserted: No. 38 of 2020 s. 5.]

Division 4 — Detention of motor vehicles

[Heading inserted: No. 38 of 2020 s. 5.]

105D. Application of Division

This Division does not apply to the detention of a motor vehicle —

(a) by immobilising it as described in section 95(1); or

(b) after it has been towed.

[Section 105D inserted: No. 38 of 2020 s. 5.]

105E. Motor vehicles not to be detained

(1) A person must not detain a parked motor vehicle by —

(a) failing to release the vehicle on demand to a relevant person for the vehicle; or

(b) refusing to release the vehicle unless a relevant person for the vehicle makes any payment for or in relation to the release.

Penalty for this subsection: a fine of 100 PU.

(2) Subsection (1) does not apply if the vehicle is detained —

(a) by, or with the consent of, a relevant person for the vehicle; or

(b) in the exercise of authorised enforcement action; or

(c) in the exercise of a security power; or

(d) under and in accordance with a written law; or

(e) in the exercise of a right under a parking agreement, where —

(i) the vehicle is parked in a parking facility; and

(ii) the means of detention is the permanent infrastructure controlling entry to, or exit from, the parking facility; and

(iii) under the parking agreement, the payment of a fee is a condition of the vehicle being allowed to leave the parking facility;

or

(f) in circumstances prescribed by the regulations.

[Section 105E inserted: No. 38 of 2020 s. 5.]

Division 5 — Miscellaneous

[Heading inserted: No. 38 of 2020 s. 5.]

105F. Abolition of distress damage feasant in relation to motor vehicles

The common law remedy of distress damage feasant in relation to trespass on land by a motor vehicle is abolished to the extent that it is inconsistent with this Part.

[Section 105F inserted: No. 38 of 2020 s. 5.]

105G. Part does not confer right to immobilise, tow or detain motor vehicle

Nothing in this Part gives any person a right to immobilise, tow or detain a motor vehicle if the person does not have that right apart from this Part.

[Section 105G inserted: No. 38 of 2020 s. 5.]

105H. Agreements for prohibited immobilisation, towing and detention services

(1) In this section —

provide a prohibited service means to immobilise, tow or detain a motor vehicle in contravention of this Part.

(2) An agreement, whether entered into before, on or after commencement day, is of no legal effect to the extent to which it authorises or permits, or purports to authorise or permit, a person to provide a prohibited service.

(3) A party to an agreement that is of no legal effect wholly or partly because of subsection (2) —

(a) is not entitled to recover any money from any person (including an owner or controller of the premises to which the agreement relates or purports to relate) for or in relation to prohibited services provided, or that were

to be provided, under the agreement on or after commencement day; and

(b) must repay to the person from whom it was received any money received, whether before, on or after commencement day, for prohibited services provided, or that were to be provided, under the agreement on or after commencement day.

(4) If a party does not repay money required by subsection (3)(b) to be repaid, the person entitled to be repaid may recover the money in a court of competent jurisdiction as a debt due from the party.

[Section 105H inserted: No. 38 of 2020 s. 5.]

Part VII — Offences and penalties

106. Sentencing for certain offences

[(1), (2) deleted]

(3) A court sentencing a person who has been convicted of —

(a) a first offence against section 63, 67 or 67AD(6); or

(b) an offence against section 64, 64B(3), 67AD(4) or 67A,

may, instead of imposing a fine —

(c) order the release of the person and impose a community based order under Part 9 of the *Sentencing Act 1995* with at least a community service requirement as a primary requirement of the order; or

(d) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least community work conditions on the offender.

(4) If a court sentencing a person who has been convicted of —

(a) an offence against section 49 committed in the circumstances mentioned in section 49(3); or

(b) a second or subsequent offence against section 63, 67 or 67AD(6),

orders the release of the offender and imposes a community based order or an intensive supervision order under the *Sentencing Act 1995*, the court must impose at least a community service requirement as a primary requirement of the order.

(5) If a court sentencing a person who has been convicted of —

(a) an offence against section 49 committed in the circumstances mentioned in section 49(3); or

(b) a second or subsequent offence against section 63, 67 or 67AD(6),

orders the release of the offender and imposes a youth community based order or an intensive youth supervision order under the *Young Offenders Act 1994*, the court must impose community work conditions on the offender as part of the order.

(6) A court sentencing a person who has been convicted of an offence against section 64AB must order a pre-sentence report about the offender under the *Sentencing Act 1995* Part 3 Division 3.

(7) A court sentencing a person who has been convicted of a first offence against section 64AB or 67AA must, instead of or in addition to imposing a fine —

(a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or

(b) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order under that Act imposing at least attendance conditions on the offender.

(8) A court sentencing a person who has been convicted of a second or subsequent offence against section 64AB or 67AA must, instead of or in addition to imposing a fine —

(a) order the release of the person and impose a community based order under the *Sentencing Act 1995* with at least a supervision requirement and a programme requirement as primary requirements of the order; or

(b) order the release of the person and impose an intensive supervision order under the *Sentencing Act 1995* with at least a programme requirement as a primary requirement of the order; or

(c) if the offender is a young person under the *Young Offenders Act 1994*, subject to sections 50, 50A and 50B of that Act, make a youth community based order, or an intensive youth supervision order, under that Act imposing at least attendance conditions and supervision conditions on the offender.

(9) Subsections (7) and (8) apply despite the *Sentencing Act 1995* section 39(3) and (4) and the *Young Offenders Act 1994* section 74.

(10) Subsection (8) does not apply if the court imposes a custodial sentence on the offender.

[Section 106 inserted: No. 50 of 2003 s. 28; amended: No. 74 of 2003 s. 105(4); No. 54 of 2006 s. 34; No. 6 of 2007 s. 21; No. 8 of 2012 s. 30; No. 27 of 2020 s. 40.]

106A. Mandatory disqualification

(1) If this Act requires a court to disqualify an offender from holding or obtaining a driver's licence —

(a) for a specific period provided in relation to the offence concerned (including permanent disqualification); or

(b) for a period not less than a minimum period provided in relation to the offence concerned; or

(c) for a period not less than a minimum period, and not more than a maximum period, provided in relation to the offence concerned,

the requirement is irreducible in mitigation and, irrespective of any sentence the court imposes on the offender, the court must disqualify the offender —

(d) for that period; or

(e) for a period not less than that minimum period; or

(f) for a period not less than that minimum period and not more than that maximum period.

(2) Subsection (1) has effect despite any other written law.

(3) Despite subsection (2), a period for which the court must, in accordance with subsection (1), disqualify an offender for an offence is to be reduced by any period during which the offender was disqualified by a disqualification notice given to the offender under section 71C in relation to the offence.

[Section 106A inserted: No. 50 of 2003 s. 28; amended: No. 51 of 2010 s. 15.]

*[**107.** Deleted: No. 8 of 2012 s. 31.]*

Part VIII — Transitional and savings provisions

[Heading amended: No. 51 of 2016 s. 46.]

108. Savings as to *Traffic Act 1919*

Without affecting the application of the *Interpretation Act 1918* [2], and particularly of sections 15 and 16 thereof, to the repeal and re-enactment by this Act of the provisions of the *Traffic Act 1919,* it is hereby declared that any regulation, by-law, order, vehicle licence, driver's licence, extraordinary driver's licence, permit or other document in force under any provision of the *Traffic Act 1919* repealed by this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when it was made or done, and it is hereby further declared that any suspension, disqualification or cancellation of a driver's licence ordered or made by or under the *Traffic Act 1919* or *The Criminal Code* shall continue and have effect as if it had been ordered or made by or under the provisions of this Act and as if this Act had been in force when it was ordered or made.

109. Transitional and savings provisions for the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016*

(1) In this section —

amendment Act means the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016*;

commencement day means —

(a) in subsections (2) to (5), the day on which section 7 of the amendment Act comes into operation;

(b) in subsections (6) to (9), the day on which section 31 of the amendment Act comes into operation;

former, in relation to a provision of this Act, means the provision as it was immediately before commencement day.

(2) An offence committed under former section 60(1) is, on and after commencement day, to be taken to be an offence under section 60(1A)(b) for the purposes of Part V.

(3) An offence committed under former section 60(1a) is, on and after commencement day, to be taken to be an offence under section 60A(1)(b) for the purposes of Part V.

(4) An offence committed under former section 60(1b) is, on and after commencement day, to be taken to be an offence under section 60A(2)(b) for the purposes of Part V.

(5) An offence committed under former section 62A is, on and after commencement day, to be taken to be an offence under section 62A(b) or (c), as the case requires, for the purposes of Part V.

(6) Section 80A(2) and (3) do not apply to, or in relation to, an offence committed before commencement day.

(7) Section 80J applies to a vehicle impounded under Part V Division 4 Subdivision 2, or on an impounding order (as defined in section 78A), whether before, on or after commencement day.

(8) Section 80J applies to a vehicle confiscated under former section 80A(1) as if it had been confiscated under section 80A on or after commencement day.

(9) Section 80J applies to a vehicle confiscated under section 80C(1) or 80CB(1) whether before, on or after commencement day.

[Section 109 inserted: No. 51 of 2016 s. 47.]

110. Savings provisions for the *Road Traffic Amendment (Blood Alcohol Content) Act 2019*

(1) In this section —

commencement day means the day on which the *Road Traffic Amendment (Blood Alcohol Content) Act 2019* section 4 comes into operation;

former Act means the *Road Traffic Act 1974* as in force immediately before commencement day.

(2) A person's blood alcohol content must be calculated in accordance with the former Act if —

(a) a sample of the person's breath or blood was provided or taken for analysis under Part V Division 2 of the former Act; and

(b) the sample is to be used for the calculation of the person's blood alcohol content for the purposes of proceedings referred to in section 70(1) of the Act.

[Section 110 inserted: No. 20 of 2019 s. 5.]

110A. Transitional provision for the *Road Traffic Amendment (Impaired Driving and Penalties) Act 2020*

(1) In this section —

commencement day means the day the *Road Traffic Amendment (Impaired Driving and Penalties) Act 2020* section 17 comes into operation.

(2) This section applies if —

(a) before the commencement day —

(i) a person (the ***first person***), other than a person to whom section 68A(3) applies, has been involved in an incident occasioning the grievous bodily harm or bodily harm to another person (the ***second person***); and

(ii) a requirement is made of the first person under section 67(3a) as in force before the commencement day; and

(iii) the person failed to comply with the requirement;

and

(b) on or after the commencement day, the second person dies.

(3) The first person may be charged, convicted or sentenced under section 67(3) as in force on or after the commencement day.

[Section 110A inserted: No. 27 of 2020 s. 41.]

Part IX — Regulations

111. Regulations etc.

(1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the equipment and use of vehicles and for the regulation of traffic, generally.

(2) Without limiting the generality of subsection (1), the Governor may make regulations —

(a) empowering an authority therein named to —

(i) prohibit, and to authorise and regulate, processions; or

(ii) restrict or prohibit the use of such roads, for such periods, as it may specify; or

(iii) erect, establish or display traffic or road signs, road markings, traffic control signals and similar devices; or

(iiia) authorise any person or body or class of person or body to erect, establish or display traffic or road signs, road markings, traffic control signals and similar devices, or any class or type thereof, in accordance with the instrument of authorisation;

(aa) regulating or prohibiting stock on roads;

(b) relating to the duties, obligations, conduct and behaviour of persons in charge, drivers and passengers of vehicles or of any class of vehicle;

(c) requiring the drivers and passengers of —

(i) motor vehicles; and

(ii) 2-wheeled or 3-wheeled vehicles that are designed to be propelled through a mechanism operated solely by human power; and

(iii) 2-wheeled or 3-wheeled vehicles that are power assisted pedal cycles,

to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles;

[(d)-(g) deleted]

(h) regulating or prohibiting the parking or standing of vehicles;

[(i) deleted]

(j) prescribing matters for or in respect of which fees shall be charged or charges shall be made and prescribing the amounts of such fees or charges;

(k) imposing penalties not exceeding a fine of 64 PU for a first offence, and not exceeding a fine of 96 PU for any subsequent offence, against any regulation made under this section;

[(l), (m) deleted]

(n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purpose of the regulations.

[(2a), (2b) deleted]

(2c) The regulations may make it an offence to contravene a condition imposed by or under the regulations, but this subsection does not limit the other consequences that the regulations may attach to a contravention.

(3) The regulations may in respect of any fee or charge (whether prescribed by the Act or by the regulations) provide for —

(a) exemptions from the requirement to pay the fee or charge; or

(b) the fee or charge to be reduced or refunded (in whole or in part); or

(c) the payment of the fee or charge to be deferred.

(4) The regulations may provide that the exemption, reduction, refund or deferral —

(a) only applies in specified circumstances or in respect of specified classes of persons or vehicles; or

(b) is at the discretion of the CEO or a specified person; or

(c) applies subject to specified requirements being satisfied; or

(d) applies subject to conditions —

(i) specified in the regulations; or

(ii) imposed by the CEO or a specified person and specified in a licence or permit.

(5) Without limiting subsection (4)(c), the regulations may require a matter to be verified by statutory declaration.

[Section 111 amended: No. 17 of 1976 s. 4; No. 89 of 1978 s. 19; No. 71 of 1979 s. 17; No. 81 of 1980 s. 10; No. 71 of 1981 s. 6; No. 105 of 1981 s. 18 and 19; No. 82 of 1982 s. 28; No. 95 of 1984 s. 8; No. 11 of 1988 s. 17 and 24; No. 46 of 1991 s. 3; No. 92 of 1994 s. 40; No. 21 of 1995 s. 12; No. 76 of 1996 s. 20(3); No. 50 of 1997 s. 13; No. 57 of 1997 s. 106(3); No. 52 of 1998 s. 5; No. 39 of 2000 s. 46; No. 27 of 2001 s. 5; No. 28 of 2001 s. 23(1); No. 39 of 2007 s. 40; No. 8 of 2012 s. 32 and 36; No. 10 of 2015 s. 5.]

*[**111AA.** Deleted: No. 8 of 2012 s. 33.]*

111AB. Exemption from specified regulations, regulations may allow grant of

(1) The regulations may provide for the Minister to declare, in writing in accordance with the regulations, that a specified

requirement of the regulations does not apply to a specified person or vehicle.

(2) The regulations may provide for the CEO to grant exemptions from regulations made under section 111(2)(aa) or (c).

[Section 111AB inserted: No. 54 of 2006 s. 35(1); amended: No. 8 of 2012 s. 34 and 36.]

*[**111A-113.** Deleted: No. 8 of 2012 s. 35.]*

[First and Second Schedule deleted: No. 28 of 2001 s. 22.]

Notes

This is a compilation of the *Road Traffic Act 1974* and includes amendments made by other written laws [1M, 32]. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Road Traffic Act 1974	59 of 1974	3 Dec 1974	s. 4: 3 Dec 1974 (see s. 2(2)); s. 6-10 and 12: 21 Feb 1975 (see s. 2(1) and *Gazette* 21 Feb 1975 p. 633); Act other than s. 4, 6-10 and 12: 1 Jun 1975 (see s. 2(1) and *Gazette* 29 May 1975 p. 1442)
Road Traffic Act Amendment Act 1975	77 of 1975	14 Nov 1975	1 Jul 1976 (see s. 2 and *Gazette* 12 Dec 1975 p. 4481)
Road Traffic Act Amendment Act (No. 2) 1975	93 of 1975	20 Nov 1975	20 Feb 1976 (see s. 2 and *Gazette* 20 Feb 1976 p. 445)
Road Traffic Act Amendment Act 1976	17 of 1976	3 Jun 1976	21 Aug 1976 (see s. 2 and *Gazette* 6 Aug 1976 p. 2658)
Road Traffic Act Amendment Act (No. 2) 1976	48 of 1976	10 Sep 1976	Act other than s. 3 and 4(a)-(f) and (h): 10 Sep 1976 (see s. 2(1)); s. 3 and 4(a)-(f) and (h): 1 Jun 1977 (see s. 2(2) and *Gazette* 20 May 1977 p. 1490)
Road Traffic Act Amendment Act (No. 3) 1976	135 of 1976	9 Dec 1976	9 Dec 1976
Road Traffic Act Amendment Act 1977	4 of 1977	29 Aug 1977	29 Aug 1977
Road Traffic Act Amendment Act 1978 [3]	89 of 1978 (as amended by No. 82 of 1982 s. 30 and 31)	8 Nov 1978	Act other than s. 16(a), (b) and (c), 18 and 23: 25 May 1979 (see s. 2 and *Gazette* 25 May 1979 p. 1377); s. 18: 1 Jan 1980 (see s. 2 and *Gazette* 7 Dec 1979 p. 3770)

Short title	Number and year	Assent	Commencement
Acts Amendment and Repeal (Road Maintenance) Act 1979 Pt. II	9 of 1979	18 May 1979	1 Jul 1979 (see s. 2(2))
Road Traffic Act Amendment Act 1979	10 of 1979	18 May 1979	18 May 1979
Road Traffic Act Amendment Act (No. 2) 1979	71 of 1979	27 Nov 1979	Act other than s. 4, 5, 8-11, 13, 14 and 18: 27 Nov 1979 (see s. 2(1)); s. 8-11, 13, 14 and 18: 1 Feb 1980 (see s. 2(2) and *Gazette* 1 Feb 1980 p. 284); s. 4: 15 Feb 1980 (see s. 2(2) and *Gazette* 15 Feb 1980 p. 456); s. 5: 2 May 1980 (see s. 2(2) and *Gazette* 2 May 1980 p. 1405)
Untitled regulations published: *Gazette* 6 Jun 1980 p. 1671-2			6 Jun 1980
Reprint of the *Road Traffic Act 1974* approved 22 Jul 1980 (includes amendments listed above)			
Road Traffic Amendment Act 1980	42 of 1980	12 Nov 1980	Act other than s. 3-6, 8, 9(a) and 10: 12 Nov 1980 (see s. 2(1)); s. 3-6, 8, 9(a) and 10: 1 Jan 1981 (see s. 2(2))
Acts Amendment (Motor Vehicle Pools) Act 1980 Pt. II	48 of 1980	19 Nov 1980	19 Nov 1980
Road Traffic Amendment Act (No. 2) 1980 [4]	81 of 1980	5 Dec 1980	5 Dec 1980
Road Traffic (Fees for Vehicle Licences) Regulations 1981 published: *Gazette* 29 May 1981 p. 1611-18			29 May 1981
Road Traffic Amendment Act 1981	39 of 1981	25 Aug 1981	25 Aug 1981
Road Traffic Amendment Act (No. 2) 1981	71 of 1981	30 Oct 1981	1 Aug 1982 (see s. 2 and *Gazette* 23 Jul 1982 p. 2842)
Road Traffic Amendment Act (No. 4) 1981	105 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and *Gazette* 2 Feb 1982 p. 393)

Short title	Number and year	Assent	Commencement
Companies (Consequential Amendments) Act 1982 s. 28	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and *Gazette* 25 Jun 1982 p. 2079)
Acts Amendment (Motor Vehicle Fees) Act 1982 Pt. III	25 of 1982	27 May 1982	1 Jul 1982 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 1982 published: *Gazette* 28 May 1982 p. 1728-34			28 May 1982
Road Traffic Amendment Act 1982	60 of 1982	24 Sep 1982	Act other than s. 3 and 6(a): 1 Oct 1982 (see s. 2 and *Gazette* 1 Oct 1982 p. 3885); s. 3 and 6(a): 1 Nov 1982 (see s. 2 and *Gazette* 1 Oct 1982 p. 3885)
Road Traffic Amendment Act (No. 2) 1982 [5]	82 of 1982	11 Nov 1982	Act other than s. 5, 7, 9, 11-14, 15(d), (e), (g), (j), (l) and (n), 16, 17, 18(a)(ii), (b), (d) and (e), 19, 20(a)-(c) and (e), 21(1), 25 and 26: 11 Nov 1982 (see s. 2(1)); s. 5, 7, 9, 11-13, 14(b), 15(d), 16, 20(a)-(c) and (e), 21(1), 25 and 26: 9 Dec 1982 (see s. 2(2)); s. 14(a), 15(e), (g), (j), (l), and (n), 17, 18(a)(ii), (b), (d) and (e) and 19: 1 Mar 1983 (see s. 2(3) and *Gazette* 25 Feb 1983 p. 638)
Road Traffic (Fees for Vehicle Licences) Regulations 1983 published: *Gazette* 20 May 1983 p. 1525-32			20 May 1983
Reprint of the *Road Traffic Act 1974* approved 9 Jul 1983 (includes amendments listed above)			
Road Traffic (Fees for Vehicle Licences) Regulations 1984 published: Gazette 28 Jun 1984 p. 1741-51			28 Jun 1984
Road Traffic Amendment Act 1984	95 of 1984	7 Dec 1984	4 Jan 1985

Short title	Number and year	Assent	Commencement
Acts Amendment and Repeal (Credit) Act 1984 Pt. VII	102 of 1984	19 Dec 1984	31 Mar 1985 (see s. 2 and *Gazette* 8 Mar 1985 p. 867)
Acts Amendment and Repeal (Transport Co-ordination) Act 1985 Pt. VI	54 of 1985	28 Oct 1985	1 Jan 1986 (see s. 2 and *Gazette* 20 Dec 1985 p. 4822)
Road Traffic Amendment Act 1985	89 of 1985	4 Dec 1985	4 Dec 1985 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 1986 published: Gazette 30 May 1986 p. 1769-75 (erratum 13 Jun 1986 p. 1979)			30 May 1986
Road Traffic Amendment Act (No. 2) 1986	78 of 1986	4 Dec 1986	4 Dec 1986 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 1987 published: *Gazette* 29 May 1987 p. 2263-73			29 May 1987
Road Traffic Amendment Act (No. 2) 1987[6, 7]	121 of 1987 (as amended by No. 84 of 2004 s. 80 cl. 123 and No. 8 of 2009 s. 112)	24 Dec 1987	s. 1 and 2: 24 Dec 1987; s. 3-6 and 8-10: 24 Dec 1987 (see s. 2 and *Gazette* 24 Dec 1987 p. 4561); s. 7: 1 Oct 1988 (see s. 2 and *Gazette* 30 Sep 1988 p. 3967); s. 11(a): 21 Dec 1990 (see s. 2 and *Gazette* 21 Dec 1990 p. 6212)
Road Traffic Amendment Act 1988[8]	11 of 1988	6 Sep 1988	s. 1 and 2: 6 Sep 1988; s. 3, 20, 21 and 23: 28 Oct 1988 (see s. 2 and *Gazette* 28 Oct 1988 p. 4274); s. 8(a) and (b): 4 Nov 1988 (see s. 2 and *Gazette* 4 Nov 1988 p. 4365); s. 4-7, 9-17, 19, 22 and 24: 16 Nov 1988 (see s. 2 and *Gazette* 16 Nov 1988 p. 4517); s. 8(c) and 18 (other than paragraph (b)): 21 Jul 1989 (see s. 2 and *Gazette* 21 Jul 1989 p. 2212); s. 18(b): 19 Sep 1989 (see s. 2

Short title	Number and year	Assent	Commencement
			and *Gazette* 21 Jul 1989 p. 2212)
Road Traffic Amendment (Random Breath Tests) Act 1988 [9]	16 of 1988 (as amended by No. 46 of 1989 s. 4; No. 76 of 1996 s. 41 and No. 39 of 2000 s. 67)	9 Sep 1988	s. 1 and 2: 9 Sep 1988; Act other than s. 1, 2 and 5: 1 Oct 1988 (see s. 2 and *Gazette* 30 Sep 1988 p. 3967)
Road Traffic Amendment Act (No. 3) 1988	32 of 1988	24 Nov 1988	s. 1 and 2: 24 Nov 1988; Act other than s. 1 and 2: 21 Jul 1989 (see s. 3 and *Gazette* 21 Jul 1989 p. 2212)
Road Traffic Amendment Act (No. 2) 1988	57 of 1988	8 Dec 1988	s. 1 and 2: 8 Dec 1988; Act other than s. 1 and 2: 1 Feb 1989 (see s. 2 and *Gazette* 23 Dec 1988 p. 4937)
Acts Amendment (Events on Roads) Act 1988 Pt. 2	64 of 1988	8 Dec 1988	1 Feb 1991 (see s. 2 and *Gazette* 1 Feb 1991 p. 511)
Acts Amendment (Children's Court) Act 1988 Pt. 7	49 of 1988	22 Dec 1988	1 Dec 1989 (see s. 2 and *Gazette* 24 Nov 1989 p. 4327)
Road Traffic (Fees for Vehicle Licences) Regulations 1989 published: *Gazette* 11 Aug 1989 p. 2695-704			11 Aug 1989
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1989 published: *Gazette* 22 Sep 1989 p. 3463			22 Sep 1989
Road Traffic (Fees for Vehicle Licences) Regulations (No. 3) 1989 published: *Gazette* 17 Nov 1989 p. 4161-5 (erratum 8 Dec 1989 p. 4463)			17 Nov 1989
Acts Amendment (Chemistry Centre (WA)) Act 1990 Pt. 3 [10]	19 of 1990	24 Jul 1990	9 Aug 1991 (see s. 2 and *Gazette* 9 Aug 1991 p. 4101)
Road Traffic (Fees for Vehicle Licences) Regulations 1990 published: *Gazette* 29 Aug 1990 p. 4383-90 (erratum 7 Dec 1990 p. 6051)			29 Aug 1990
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1990 published: *Gazette* 23 Nov 1990 p. 5850-1			23 Nov 1990

Short title	Number and year	Assent	Commencement
Road Traffic Amendment Act (No. 3) 1990	60 of 1990	17 Dec 1990	s. 1 and 2: 17 Dec 1990; Act other than s. 1 and 2: 21 Dec 1990 (see s. 2 and *Gazette* 21 Dec 1990 p. 6212)
Reprint of the *Road Traffic Act 1974* as at 4 Apr 1991 (includes amendments listed above except those in the *Acts Amendment (Chemistry Centre (WA)) Act 1990*)			
Road Traffic (Fees for Vehicle Licences) Regulations 1991 published: *Gazette* 23 Aug 1991 p. 4417-22			23 Aug 1991
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1991 published: *Gazette* 22 Nov 1991 p. 5958-9			22 Nov 1991
Criminal Law Amendment Act 1991 s. 6(2) and 21 [11]	37 of 1991	12 Dec 1991	s. 6(2): 12 Dec 1991 (see s. 2(1)); s. 21: 10 Feb 1992 (see s. 2(2) and *Gazette* 31 Jan 1992 p. 477)
Road Traffic (Bicycle Helmets) Amendment Act 1991	46 of 1991	17 Dec 1991	17 Dec 1991 (see s. 2)
Road Traffic Amendment (Power Assisted Pedal Cycles) Act 1991	50 of 1991	17 Dec 1991	s. 1 and 2: 17 Dec 1991; Act other than s. 1 and 2: 24 Dec 1991 (see s. 2 and *Gazette* 24 Dec 1991 p. 6395)
Criminal Law Amendment Act 1992 Pt. 3	1 of 1992	7 Feb 1992	9 Mar 1992 (see s. 2)
Road Traffic Amendment Act 1992	13 of 1992	16 Jun 1992	16 Jun 1993 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 1992 published: *Gazette* 21 Aug 1992 p. 4162-6			21 Aug 1992
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1992 published: *Gazette* 13 Nov 1992 p. 5591-2			13 Nov 1992
Financial Administration Legislation Amendment Act 1993 s. 6 and 11	6 of 1993	27 Aug 1993	s. 11: 1 Jul 1993 (see s. 2(1)); s. 6: 27 Aug 1993 (see s. 2(2))
Acts Amendment (Vehicles on Roads) Act 1994 Pt. 3	13 of 1994	15 Apr 1994	17 May 1994 (see s. 2 and *Gazette* 17 May 1994 p. 2065)
Taxi Act 1994 s. 48	83 of 1994	20 Dec 1994	10 Jan 1995 (see s. 2 and *Gazette* 10 Jan 1995 p. 73)

Short title	Number and year	Assent	Commencement
Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994 Pt. 19	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2(1) and *Gazette* 30 Dec 1994 p. 7211)
Reprint of the *Road Traffic Act 1974* as at 1 Jun 1995 (includes amendments listed above)			
Road Traffic Amendment Act 1995	21 of 1995	13 Jul 1995	s. 1 and 2: 13 Jul 1995; Act other than s. 1 and 2: 25 Nov 1995 (see s. 2 and *Gazette* 24 Nov 1995 p. 5390)
Acts Amendment (Vehicle Licences) Act 1995 Pt. 2	57 of 1995	20 Dec 1995	20 Dec 1995 (see s. 2)
Sentencing (Consequential Provisions) Act 1995 Pt. 71 and s. 147	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and *Gazette* 25 Oct 1996 p. 5632)
Road Traffic (Fees for Vehicle Licences) Regulations 1996 published: *Gazette* 24 May 1996 p. 2181-9			24 May 1996
Local Government (Consequential Amendments) Act 1996 s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Consumer Credit (Western Australia) Act 1996 s. 13	30 of 1996	10 Sep 1996	1 Nov 1996 (see s. 2)
Road Traffic Amendment (Measuring Equipment) Act 1996	37 of 1996	27 Sep 1996	27 Sep 1996 (see s. 2)
Financial Legislation Amendment Act 1996 s. 27(3) and 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2)
Road Traffic Amendment Act 1996[12, 13]	76 of 1996 (as amended by No. 49 of 1996 s. 27(4); No. 54 of 2006 s. 43(2))	14 Nov 1996	s. 1 and 2: 14 Nov 1996; Act other than s. 1, 2 and 8(3): 1 Feb 1997 (see s. 2 and *Gazette* 31 Jan 1997 p. 613)
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1996 published: *Gazette* 17 Dec 1996 p. 7014-15			17 Dec 1996

Short title	Number and year	Assent	Commencement
Reprint of the *Road Traffic Act 1974* as at 25 Mar 1997 (includes amendments listed above)			
Road Traffic (Fees for Vehicle Licences) Regulations 1997 published: *Gazette* 13 May 1997 p. 2344-9			13 May 1997
Road Traffic Amendment Act 1997 [14]	50 of 1997	12 Dec 1997	s. 1 and 2: 12 Dec 1997; Act other than s. 1 and 2: 1 Jan 1998 (see s. 2 and *Gazette* 23 Dec 1997 p. 7400)
Statutes (Repeals and Minor Amendments) Act 1997 s. 106	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Road Traffic (Fees for Vehicle Licences) Regulations 1998 published: Gazette 12 May 1998 p. 2799-800			15 May 1998 (see r. 2)
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 1998 published: Gazette 3 Jul 1998 p. 3603-4			3 Jul 1998 (see r. 2)
Road Traffic Amendment Act 1998	52 of 1998	7 Dec 1998	7 Dec 1998 (see s. 2)
Perth Parking Management (Consequential Provisions) Act 1999 s. 7(4)	16 of 1999	19 May 1999	7 Aug 1999 (see s. 2 and *Gazette* 6 Aug 1999 p. 3727)
Road Traffic (Fees for Vehicle Licences) Regulations 1999 published: Gazette 25 May 1999 p. 2070-1			25 May 1999 (see r. 2)
Revenue Laws Amendment (Assessment) Act 1999 Pt. 3	24 of 1999	29 Jun 1999	1 Jul 1999 (see s. 2(3))
Reprint of the *Road Traffic Act 1974* as at 17 Sep 1999 (includes amendments listed above)			
School Education Act 1999 s. 247	36 of 1999	2 Nov 1999	1 Jan 2001 (see s. 2 and *Gazette* 29 Dec 2000 p. 7904)
Acts Amendment (Police Immunity) Act 1999 s. 9	42 of 1999	25 Nov 1999	25 Nov 1999 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 2000 published: Gazette 17 May 2000 p. 2421-3			31 May 2000 (see r. 2 and *Gazette* 17 May 2000 p. 2426)

Short title	Number and year	Assent	Commencement
Statutes (Repeals and Minor Amendments) Act 2000 s. 39 and 55	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Road Traffic Amendment Act 2000 Pt. 2 [15-19]	39 of 2000 (as amended by No. 5 of 2002 s. 15; No. 45 of 2002 s. 28(2); No. 84 of 2004 s. 80 (cl. 124))	10 Oct 2000	s. 3, 17(1), 34-37 and 47(3): 30 Jan 2001 (see s. 2 and *Gazette* 30 Jan 2001 p. 615); s. 18, 23, 24, 27, 29 and 48 and Sch. 1 (except cl. 3 and 5): 5 Feb 2001 (see s. 2 and *Gazette* 30 Jan 2001 p. 615); s. 19-22, 25, 26, 28 and 45 and Sch. 1 cl. 3 and 5: 7 May 2001 (see s. 2 and *Gazette* 23 Mar 2001 p. 1665); Proclamation of 9 Feb 2001 p. 767 revoked (see *Gazette* 23 Mar 2001 p. 1665); s. 6 deleted by No. 5 of 2002 s. 15; s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4): 1 Jan 2006 (see s. 2 and *Gazette* 23 Dec 2005 p. 6244-5)
Acts Amendment (Fines Enforcement and Licence Suspension) Act 2000 Pt. 3	51 of 2000	28 Nov 2000	5 Feb 2001 (see s. 2 and *Gazette* 30 Jan 2001 p. 615)
Road Traffic (Fees for Vehicle Licences) Regulations 2001 published: Gazette 29 Jun 2001 p. 3247			29 Jun 2001 (see r. 2)
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2001 published: Gazette 14 Aug 2001 p. 4256-8			14 Aug 2001 (see r. 2)
Reprint of the *Road Traffic Act 1974* as at 19 Oct 2001 (includes amendments listed above except those in the *Road Traffic Amendment Act 2000* s. 4-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4))			
Road Traffic Amendment Act 2001	27 of 2001	21 Dec 2001	s. 1 and 2: 21 Dec 2001; Act other than s. 1 and 2: 10 Aug 2002 (see s. 2 and *Gazette* 9 Aug 2002 p. 3853-4)

Short title	Number and year	Assent	Commencement
Road Traffic Amendment (Vehicle Licensing) Act 2001 Pt. 2	28 of 2001 (as amended by No. 45 of 2002 s. 29(2))	21 Dec 2001	4 Dec 2006 (see s. 2 and *Gazette* 28 Nov 2006 p. 4889)
Road Traffic (Fees for Vehicle Licenses) Regulations 2002 published: *Gazette* 17 May 2002 p. 2558-60			17 May 2002 (see r. 2)
Motor Vehicle Dealers Amendment Act 2002 s. 72	4 of 2002	4 Jun 2002	1 Sep 2002 (see s. 2 and *Gazette* 13 Aug 2002 p. 4151)
Road Safety Council Act 2002 s. 15	5 of 2002	4 Jun 2002	1 Jul 2002 (see s. 2(1) and *Gazette* 1 Jul 2002 p. 3205)
Machinery of Government (Planning and Infrastructure) Amendment Act 2002 Pt. 7 [20]	7 of 2002	19 Jun 2002	1 Jul 2002 (see s. 2 and *Gazette* 28 Jun 2002 p. 3037)
Taxation Administration (Consequential Provisions) Act 2002 s. 27 [21]	45 of 2002	20 Mar 2003	1 Jul 2003 (see s. 2(1) and (2) and *Gazette* 27 Jun 2003 p. 2383)
Nurses Amendment Act 2003 Pt. 3 Div. 7	9 of 2003	9 Apr 2003	9 Apr 2003 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 2003 published: Gazette 20 May 2003 p. 1804-6			31 May 2003 (see r. 2)
Sentencing Legislation Amendment and Repeal Act 2003 Pt. 3 and s. 92	50 of 2003	9 Jul 2003	Pt. 3: 30 Aug 2003 (see s. 2 and *Gazette* 29 Aug 2003 p. 3833); s. 92: 15 May 2004 (see s. 2 and *Gazette* 14 May 2004 p. 1445)
Statutes (Repeals and Minor Amendments) Act 2003 s. 105 [22]	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Criminal Code Amendment Act 2004 s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 2004 published: Gazette 28 May 2004 p. 1843-5			31 May 2004 (see r. 2)

Short title	Number and year	Assent	Commencement
Road Traffic Amendment Act 2004	6 of 2004	10 Jun 2004	10 Jun 2004 (see s. 2)
Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004	10 of 2004	23 Jun 2004	s. 1 and 2: 23 Jun 2004; Act other than s. 1 and 2: 4 Sep 2004 (see s. 2 and *Gazette* 3 Sep 2004 p. 3849)
Reprint 8: The *Road Traffic Act 1974* as at 16 Jul 2004 (includes amendments listed above except those in the *Road Traffic Amendment Act 2000* s. 4, 5, 7-16, 17(2), 30-33, 38-44, 46, 47(1), (2) and (4), *Road Traffic Amendment (Vehicle Licensing) Act 2001* and the *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2004*)			
Road Traffic Amendment (Dangerous Driving) Act 2004 [23]	44 of 2004	9 Nov 2004	s. 1 and 2: 9 Nov 2004; Act other than s. 1 and 2: 1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7132)
Courts Legislation Amendment and Repeal Act 2004 s. 141 [24]	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 115 [25]	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7130)
Criminal Law Amendment (Simple Offences) Act 2004 s. 82	70 of 2004	8 Dec 2004	31 May 2005 (see s. 2 and *Gazette* 14 Jan 2005 p. 163)
Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78, 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7129 (correction: Gazette 7 Jan 2005 p. 53))
Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2004 published: Gazette 24 Dec 2004 p. 6255			1 Feb 2005 (see r. 2)
Road Traffic (Fees for Vehicle Licences) Regulations 2005 published: Gazette 27 May 2005 p. 2306-8			31 May 2005 (see r. 2)
Reprint 9: The *Road Traffic Act 1974* as at 10 Mar 2006 (includes amendments listed above except those in the *Road Traffic Amendment (Vehicle Licensing) Act 2001*)			

Short title	Number and year	Assent	Commencement
Road Traffic (Fees for Vehicle Licences) Regulations 2006 published: Gazette 26 May 2006 p. 1885-8			31 May 2006 (see r. 2)
Nurses and Midwives Act 2006 Sch. 3 cl. 20	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and *Gazette* 18 Sep 2007 p. 4711)
Road Traffic Amendment Act 2006 Pt. 2 (s. 3-35) [26-28]	54 of 2006	26 Oct 2006	s. 27: 7 Jul 2007 (see s. 2 and *Gazette* 6 Jul 2007 p. 3385); s. 19: 11 Oct 2007 (see s. 2 and *Gazette* 11 Oct 2007 p. 5475); Pt. 2 (other than s. 19 and 27): 30 Jun 2008 (see s. 2 and *Gazette* 10 Jun 2008 p. 2471)
Financial Legislation Amendment and Repeal Act 2006 s. 4	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137)
Road Traffic Amendment Act 2007	4 of 2007	11 Apr 2007	s. 1 and 2: 11 Apr 2007; Act other than s. 1 and 2: 1 May 2007 (see s. 2 and *Gazette* 27 Apr 2007 p. 1831)
Road Traffic Amendment (Drugs) Act 2007 Pt. 2	6 of 2007	23 May 2007	12 Oct 2007 (see s. 2 and *Gazette* 11 Oct 2007 p. 5475)
Chemistry Centre (WA) Act 2007 s. 43	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and *Gazette* 27 Jul 2007 p. 3735)
Road Traffic Amendment Act (No. 2) 2007 Pt. 2 (s. 3-40)	39 of 2007	21 Dec 2007	Div. 6: 22 Dec 2007 (see s. 2(j)); s. 3-16 (other than s. 6(2)(b)(ii), 19-24, 27-30: 15 Mar 2008 (see s. 2(b)-(j) and *Gazette* 14 Mar 2008 p. 829); s. 6(2)(b)(ii): 15 Mar 2008 (see s. 2(c)); s. 17, 18 and 25: 30 Jun 2008 (see s. 2(d)-(f)); s. 26 and Div. 5: 1 Jul 2008 (see s. 2(g)-(i) and *Gazette* 27 Jun 2008 p. 3117); Div. 4 (other than s. 26): 1 Dec 2010 (see s. 2(g) and *Gazette* 12 Nov 2010 p. 5659)

Short title	Number and year	Assent	Commencement
Acts Amendment (Justice) Act 2008 s. 131	5 of 2008	31 Mar 2008	30 Sep 2008 (see s. 2(d) and *Gazette* 11 Jul 2008 p. 3253)
Duties Legislation Amendment Act 2008 Sch. 1 cl. 33	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
Medical Practitioners Act 2008 Sch. 3 cl. 51	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and *Gazette* 25 Nov 2008 p. 4989)
Road Traffic Amendment Act 2008	24 of 2008	13 Jun 2008	s. 1 and 2: 13 Jun 2008 (see s. 2(1)(a)); Act other than s. 1, 2, 5(a) and 8: 19 Jul 2008 (see s. 2(1)(b) and *Gazette* 18 Jul 2008 p. 3329); s. 5(a) and 8: 1 Jul 2009 (see s. 2(1)(b) and (2) and *Gazette* 23 Jun 2009 p. 2423)
Criminal Law Amendment (Homicide) Act 2008 s. 38	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(d) and *Gazette* 22 Jul 2008 p. 3353)
Reprint 10: The *Road Traffic Act 1974* as at 3 Oct 2008 (includes amendments listed above except those in the *Medical Practitioners Act 2008*, *Road Traffic Amendment Act (No. 2) 2007* Pt. 2 Div. 4 (other than s. 26) and the *Road Traffic Amendment Act 2008* s. 5(a) and 8) (correction: Gazette 19 Oct 2010 p. 5202)			
Road Traffic Amendment (Hoons) Act 2009 Pt. 2	23 of 2009	6 Oct 2009	1 Jan 2010 (see s. 2(1)(b) and (2) and *Gazette* 31 Dec 2009 p. 5421)
Road Traffic Legislation Amendment (Registration Labels) Act 2009 Pt. 2	39 of 2009	3 Dec 2009	1 Jan 2010 (see s. 2(b))
Credit (Commonwealth Powers) (Transitional and Consequential Provisions) Act 2010 s. 12	14 of 2010	25 Jun 2010	1 Jul 2010 (see s. 2(b) and *Gazette* 30 Jun 2010 p. 3185)
Standardisation of Formatting Act 2010 s. 51	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and *Gazette* 10 Sep 2010 p. 4341)
Road Traffic Amendment Act 2010	20 of 2010	7 Jul 2010	s. 1 and 2: 7 Jul 2010 (see s. 2(a)); Act other than s. 1 and 2: 1 Sep 2010 (see s. 2(b) and *Gazette* 27 Aug 2010 p. 4105)

Short title	Number and year	Assent	Commencement
Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 45	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and *Gazette* 1 Oct 2010 p. 5075-6)

Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010 Pt. 2 (other than s. 12(2)(c), (5)(d) and (7)(b)) [29]	51 of 2010 (as amended by No. 17 of 2014 s. 36)	8 Dec 2010	s. 3 and 6-10: 9 Dec 2010 (see s. 2(b));
			s. 4 and 13: 9 Apr 2011 (see s. 2(c) and *Gazette* 8 Apr 2011 p. 1281);
			s. 12 (other than 12(2)(c), (5)(d) and (7)(b)): 4 Jul 2011 (see s. 2(c) and *Gazette* 20 May 2011 p. 1837);
			s. 5, 11, 14 and 15: 1 Aug 2012 (see s. 2(c) and *Gazette* 27 Jul 2012 p. 3664)

Reprint 11: The *Road Traffic Act 1974* as at 28 Jan 2011 (includes amendments listed above except those in the *Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010* s. 4, 5 and 11-15)			
Road Traffic Amendment (Alcohol and Drug Related Offences) Act 2011 Pt. 2	14 of 2011	25 May 2011	1 Oct 2011 (see s. 2(b) and *Gazette* 30 Aug 2011 p. 3503)
Road Traffic Legislation Amendment (Information) Act 2011 Pt. 2	18 of 2011	2 Jun 2011	Pt. 2 (other than s. 9): 30 Jun 2011 (see s. 2(b) and *Gazette* 29 Jun 2011 p. 2611); s. 9: 14 Jan 2013 (see s. 2(b) and *Gazette* 4 Jan 2013 p. 3)
Personal Property Securities (Consequential Repeals and Amendments) Act 2011 Pt. 12 Div. 3	42 of 2011	4 Oct 2011	30 Jan 2012 (see s. 2(c) and Cwlth Legislative Instrument No. F2011L02397 cl. 5 registered 21 Nov 2011)
Manslaughter Legislation Amendment Act 2011 Pt. 3	58 of 2011	30 Nov 2011	17 Mar 2012 (see s. 2(b) and *Gazette* 16 Mar 2012 p. 1245)
Road Traffic Legislation Amendment Act 2012 Pt. 3 (s. 4-38)	8 of 2012 (as amended by No. 10 of 2015 s. 14-18)	21 May 2012	Pt. 3 (s. 15-18): 1 Aug 2012 (see s. 2(c)(ii) and *Gazette* 27 Jul 2012 p. 3664); Pt. 3 (other than s. 15-18): 27 Apr 2015 (see s. 2(b)(i) and (d) and *Gazette* 17 Apr 2015 p. 1371)

Short title	Number and year	Assent	Commencement
Fire and Emergency Services Legislation Amendment Act 2012 Pt. 7 Div. 13	22 of 2012	29 Aug 2012	1 Nov 2012 (see s. 2(b) and *Gazette* 31 Oct 2012 p. 5255)
Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012 Pt. 4 Div. 7	48 of 2012	29 Nov 2012	21 Aug 2013 (see s. 2(b) and *Gazette* 20 Aug 2013 p. 3815)
Road Traffic (Miscellaneous Amendments) Act 2012 Pt. 2	59 of 2012 (as amended by No. 10 of 2015 s. 21)	11 Dec 2012	Pt. 2 (other than s. 12): 12 Dec 2012 (see s. 2(b)); s. 12: 27 Apr 2015 (see s. 2(c)(ii) and *Gazette* 17 Apr 2015 p. 1371)
Reprint 12: The *Road Traffic Act 1974* as at 22 Mar 2013 (includes amendments listed above except those in the *Road Traffic Legislation Amendment Act 2012* Pt. 3 (other than s. 15-18), the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* and the *Road Traffic (Miscellaneous Amendments) Act 2012* s. 12)			
Medicines and Poisons Act 2014 s. 188	13 of 2014	2 Jul 2014	30 Jan 2017 (see s. 2(b) and *Gazette* 17 Jan 2017 p. 403)
Statutes (Repeals and Minor Amendments) Act 2014 s. 35	17 of 2014	2 Jul 2014	6 Sep 2014 (see s. 2(b) and *Gazette* 5 Sep 2014 p. 3213)
Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015 Pt. 2 (other than s. 9) and Pt. 3 Div. 1 [30]	2 of 2015 (as amended by No. 20 of 2019 s. 7)	25 Feb 2015	Pt. 2 (other than s. 9): 4 Apr 2016 (see s. 2(1)(b) and *Gazette* 24 Mar 2016 p. 927); Pt. 3 Div. 1: 24 Oct 2016 (see s. 2(1)(b) and (2) and *Gazette* 20 Sep 2016 p. 3965)
Road Traffic Legislation Amendment Act 2015 Pt. 2	10 of 2015	1 Apr 2015	2 Apr 2015 (see s. 2(b))
Reprint 13: The *Road Traffic Act 1974* as at 12 Jun 2015 (includes amendments listed above except those in the *Medicines and Poisons Act 2014* and the *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015*)			
Public Health (Consequential Provisions) Act 2016 s. 101	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and *Gazette* 10 Jan 2017 p. 165)

Short title	Number and year	Assent	Commencement
Road Traffic Legislation Amendment Act 2016 Pt. 2 Div. 1, Pt. 3 Div. 1 Subdiv. 1, Div. 2, Div. 3 Subdiv. 1, Div. 4 Subdiv. 1 (other than s. 64) [33]	25 of 2016 (as amended by No. 20 of 2019 s. 9)	21 Sep 2016	Pt. 1: 21 Sep 2016 (see s. 2(a)); Pt. 2: Div. 1: 22 Sep 2016 (see s. 2(b)); Pt. 3 Div. 1 Subdiv. 1, Div. 3 Subdiv. 1 (other than s. 46 and 53) and Div. 4 Subdiv. 1 (other than s. 64): 28 Nov 2016 (see s. 2(c) and *Gazette* 25 Nov 2016 p. 5279); Pt. 3 Div. 2, s. 46 and 53: 10 Mar 2017 (see s. 2(c) and *Gazette* 7 Feb 2017 p. 1158-9)
Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016 Pt. 2 [31]	51 of 2016	28 Nov 2016	14 Jan 2017 (see s. 2(1)(b) and (2) and *Gazette* 13 Jan 2017 p. 338)
Reprint 14: The *Road Traffic Act 1974* as at 1 Dec 2017 (includes amendments listed above)			
Health Practitioner Regulation National Law (WA) Amendment Act 2018 s. 120	4 of 2018	19 Apr 2018	1 Dec 2018 (see s. 2(d) and *Gazette* 13 Nov 2018 p. 4427-8)
Road Traffic Amendment (Driving Offences) Act 2018 Pt. 2	19 of 2018	7 Sep 2018	17 Nov 2018 (see s. 2(b) and *Gazette* 16 Nov 2018 p. 4523)
Transport (Road Passenger Services) Act 2018 Pt. 14 Div. 2 Subdiv. 3	26 of 2018	30 Oct 2018	2 Jul 2019 (see s. 2(b) and *Gazette* 28 Jun 2019 p. 2473)
Road Traffic Amendment (Blood Alcohol Content) Act 2019	20 of 2019	15 Aug 2019	Pt. 1: 15 Aug 2019 (see s. 2(a)); Act other than Pt. 1: 12 Sep 2019 (see s. 2(b))

Short title	Number and year	Assent	Commencement
Road Traffic Amendment (Impaired Driving and Penalties) Act 2020 Pt. 2	27 of 2020	9 Jul 2020	s. 3 and 39: 12 Oct 2020 (see s. 2(1)(b) and SL 2020/148 cl. 2); s. 24 and 26: 28 Oct 2020 (see s. 2(1)(b) and SL 2020/199 cl. 2); s. 29(10) and 33: 26 Feb 2021 (see s. 2(1)(b) and SL 2020/254 cl. 2); Pt. 2 (other than s. 3, 24, 26, 29(10), 33 and 39): 1 Jul 2021 (see s. 2(1)(b) and SL 2021/54 cl. 2(a)-(c))
Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Act 2020 Pt. 2	38 of 2020	10 Nov 2020	14 Dec 2020 (see s. 2(1)(b) and SL 2020/229 cl. 2)
Road Traffic Legislation Amendment (Infringement Management Reform) Act 2024 Pt. 4 Div. 4	15 of 2024	14 May 2024	7 Oct 2024 (see s. 2(b) and SL 2024/200 cl. 2)
Towing Services Act 2024 Pt. 11 Div. 2	37 of 2024	29 Oct 2024	10 Jan 2025 (see s. 2(c) and SL 2025/3 cl. 2(h))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Public Health (Consequential Provisions) Act 2016 Pt. 5 Div. 21	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))
Road Traffic Amendment (Disqualification Notices) Act 2026 Pt. 2	20 of 2026	28 Oct 2026	To be proclaimed (see s. 2(b))

Other notes

[1M] Under the *Cross-border Justice Act 2008* section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the *Cross-border Justice Regulations 2009* Part 3 Division 19 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

[1] Footnote no longer applicable.

[2] Repealed by the *Interpretation Act 1984*.

[3] The *Road Traffic Amendment Act (No. 2) 1982* s. 30 and 31 deleted the *Road Traffic Act Amendment Act 1978* s. 16(a), (b) and (c) and 23.

[4] The *Road Traffic Amendment Act (No. 2) 1980* s. 10(2) reads as follows:

> (2) A traffic sign or traffic control signal or similar device purported to have been erected for the purposes of the principal Act and the regulations made thereunder before the coming into operation of this section shall be and always have been a valid and effective traffic sign, traffic control signal, or device for those purposes.

[5] The *Road Traffic Amendment Act (No. 2) 1982* s. 21(2) is a transitional provision that is of no further effect.

[6] The *Road Traffic Amendment Act (No. 2) 1987* s. 10(2) reads as follows:

> (2) A certificate that was in force under section 72(3)(b) of the principal Act immediately before the commencement of subsection (1)(d) shall have effect after that commencement as if it certified the person named in the certificate as being competent to operate all types of breath analysing equipment.

[7] The *Road Traffic Amendment Act (No. 2) 1987* s. 11(b) had not come into operation when it was deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 112.

[8] The *Road Traffic Amendment Act 1988* s. 17(2) and (3) read as follows:

> (2) In subsection (3) ***the relevant regulations*** means any regulations purporting to have been made under the principal Act before 1 July 1984 that would have been authorised under section 43(7) or (8) of the *Interpretation Act 1984* if they had been made on or after 1 July 1984.
>
> (3) The principal Act as enacted from time to time before 1 July 1984 is deemed to have authorised the making of the relevant regulations and those regulations shall be deemed to have taken effect and had the force of law accordingly.

[9] The *Road Traffic Amendment (Random Breath Tests) Act 1989* s. 4 and the *Road Traffic Amendment Act 1996* s. 41 amended the *Road Traffic Amendment (Random Breath Tests) Act 1988* s. 5, which was deleted by the *Road Traffic Amendment Act 2000* s. 67.

[10] The *Acts Amendment (Chemistry Centre (WA)) Act 1990* s. 9 and 10 read as follows:

> **9. Saving of certificates and labels**
>
> A certificate or label issued under the principal Act that purports to have been signed by the director of the Government Chemical Laboratories or prepared by the Government Chemical Laboratories before the commencement of this Act shall continue to have effect as if this Act had not come into operation.
>
> **10. Validation**
>
> Every act or thing purporting to have been done by the Director or any other officer of the Chemistry Centre (WA) under the principal Act before the commencement of this Act that would have been lawful if this Act had been in force at the time when it was done is hereby validated and declared to have been lawfully done.

[11] The *Criminal Law Amendment Act 1991* cl. 1(2) of Pt. A of the Sch. reads as follows:

> (2) Notwithstanding subclause (1), section 59(2), as it was immediately before the commencement of this clause, continues to apply in relation to —
>
> (a) any death that occurred before the commencement of this clause; and

(b) any death that occurs after the commencement of this clause if the driving which directly or indirectly causes the death occurs not less than a year and a day before the commencement of this clause.

[12] The *Road Traffic Amendment Act 1996* s. 52 reads as follows:

52. Actions of delegates validated

(1) Anything done before the commencement of this section by a person acting under any delegation purporting to have been made by the Traffic Board under any written law, is as valid and has the same force and effect, and is to be regarded as having always been as valid and had the same force and effect, as if it had been done by the Traffic Board.

(2) In subsection (1) —

Traffic Board means the Traffic Board constituted under section 6 of the *Road Traffic Act 1974* as it was before the commencement of this Act.

[13] The *Road Traffic Amendment Act 1996* s. 8(3) was deleted by the *Road Traffic Amendment Act 2006* s. 43(2).

[14] The amendment in the *Road Traffic Amendment Act 1997* s. 13 to amend s. 20(2) did not come into operation because of an error in the reference to the provision to be amended.

[15] The *Road Traffic Amendment Act 2000* s. 48 and Sch. 1 read as follows:

48. Savings and transitional

Schedule 1 has effect.

Schedule 1 — Savings and transitional

[s. 48]

1. Interpretation

In this Part —

commencement day means the day on which this Act comes into operation under section 2.

2. Section 18 amendments have no effect in relation to certain applications

The amendments made by section 18 have no effect in relation to an application for a driver's licence by a person who holds a

permit issued under section 48C of the *Road Traffic Act 1974* before the commencement day.

3. Licences to drive vehicles formerly classified by reference to use

If —

(a) immediately before the commencement day, a person was the holder of a driver's licence authorising the person to drive a motor vehicle classified under section 43(2) by reference to the purpose for which or manner in which it is being used; and

(b) on and after the commencement day the purpose or manner is prohibited by regulations under section 43(1)(aa) of the *Road Traffic Act 1974*,

the licence, or any new class of licence held by the person under section 43(1)(e) of the *Road Traffic Act 1974*, is to be regarded as having been endorsed to confer the authority to drive for that purpose or in that manner.

4. Section 23 amendments have effect only in relation to licences issued after commencement

The amendments made by section 23 have effect only in relation to a driver's licence issued after the commencement day.

5. Duplicate licences

If —

(a) after the commencement day a person applies for a duplicate of a driver's licence under section 48B of the *Road Traffic Act 1974*; and

(b) the licence was issued before the commencement day without the photograph and signature of the licence holder,

then section 42B of the *Road Traffic Act 1974* applies to the issue of the duplicate as if it were the issue of a driver's licence.

[16] The amendment in the *Road Traffic Amendment Act 2000* s. 16(2) to amend s. 25(2) is not included because the subsection it sought to amend had been deleted by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 1062(2).

[17] The amendment in the *Road Traffic Amendment Act 2000* s. 33 to amend s. 59(1a) is not included because the subsection it sought to amend had been deleted by the *Criminal Code Amendment Act 2004* Sch. 3 cl. 27(3).

[18] The amendment in the *Road Traffic Amendment Act 2000* s. 33 to amend s. 59(3) is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment (Dangerous Driving) Act 2004* s. 5(3).

[19] The amendment in the *Road Traffic Amendment Act 2000* s. 39 to amend s. 89 is not included because the section it sought to amend had been deleted by the *Criminal Law Amendment (Simple Offences) Act 2004* s. 82.

[20] The *Machinery of Government (Planning and Infrastructure) Amendment Act 2002* s. 67-69 read as follows:

> **67. Agreements under former *Transport Co-ordination Act 1966* section 15C**
>
> (1) To the extent that, immediately before the commencement of this Act, an agreement under the former section 15C made provision about the performance of functions of the former Director General under a relevant Act, the agreement continues, when this Act comes into operation, as an agreement under the new provision of the relevant Act.
>
> (2) To the extent that the agreement continues under subsection (1), it applies as if —
>
> (a) instead of being made by the Minister referred to in the former section 15C, the agreement had been made by the Director General referred to in the new provision of the relevant Act; and
>
> (b) instead of providing for the performance of functions of the former Director General, the agreement made similar provision for the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act.
>
> (3) In this section —
>
> ***former Director General*** means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;
>
> ***former section 15C*** means the *Transport Co-ordination Act 1966* section 15C as in force before it was repealed by this Act;
>
> ***new provision*** means —
>
> (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4B;
>
> (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4A;
>
> (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QA; or

(d) the *Road Traffic Act 1974* section 6B;

relevant Act means —

(a) the *Control of Vehicles (Off-road Areas) Act 1978*;

(b) the *Motor Vehicle Drivers Instructors Act 1963*;

(c) the *Motor Vehicle (Third Party Insurance) Act 1943*; or

(d) the *Road Traffic Act 1974*.

68. Delegations under former *Transport Co-ordination Act 1966* section 18

(1) To the extent that, immediately before the commencement of this Act, a delegation under the former section 18 applied to the performance of functions or powers of the former Director General under a relevant Act, the delegation continues, when this Act comes into operation, as a delegation under the new provision of the relevant Act.

(2) To the extent that the delegation continues under subsection (1), it applies as if —

(a) instead of being made by the former Director General, the delegation had been made by the Director General referred to in the new provision of the relevant Act;

(b) instead of delegating the performance of functions of the former Director General, the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act were delegated; and

(c) any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.

(3) In this section —

former Director General means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

former section 18 means the *Transport Co-ordination Act 1966* section 18 as in force before it was amended by this Act;

new provision means —

(a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4A;

(b) the *Motor Vehicle Drivers Instructors Act 1963* section 4;

(c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QB;

(d) the *Rail Safety Act 1998* section 57A;

(e) the *Road Traffic Act 1974* section 6A; or

(f) the *Transport Co-ordination Act 1966* section 18;

relevant Act means —

(a) the *Control of Vehicles (Off-road Areas) Act 1978*;

(b) the *Motor Vehicle Drivers Instructors Act 1963*;

(c) the *Motor Vehicle (Third Party Insurance) Act 1943*;

(d) the *Rail Safety Act 1998*;

(e) the *Road Traffic Act 1974*; or

(f) the *Transport Co-ordination Act 1966*.

69. Regulations about transitional matters

(1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under an Act amended by this Act may include any provision that is required, or is necessary or convenient, for dealing with the transitional matter.

(2) In subsection (1) —

transitional matter means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before this Act comes into operation to the provisions of those Acts as in force after this Act comes into operation.

(3) Regulations including a provision described in subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.

(4) To the extent that a regulation including a provision described in subsection (1) may have effect before the day of its publication in the *Gazette*, it does not —

(a) affect in a manner prejudicial to any person (other than the State or an agency of the State), the rights of that person existing before the day of its publication; or

(b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of its publication.

[21] The *Taxation Administration (Consequential Provisions) Act 2002* s. 30 and 32 will not come into operation (see s. 2(2)).

[22] The amendment in the *Statutes (Repeals and Minor Amendments) Act 2003* s. 105(4) is not included because the section it sought to amend had been replaced by the *Sentencing Legislation Amendment and Repeal Act 2003* s. 28.

[23] The *Road Traffic Amendment (Dangerous Driving) Act 2004* s. 12 reads as follows:

> **12. Review**
>
> (1) The Minister is to carry out a review of the operations and effectiveness of the amendments made to the *Road Traffic Act 1974* by this Act as soon as is practicable after the expiry of 18 months from the commencement of the *Road Traffic Amendment (Dangerous Driving) Act 2004*.
>
> (2) The Minister is to prepare a report based on the review carried out under subsection (1) and is to cause that report to be laid before each House of Parliament as soon as practicable.

[24] The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 46 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).

[25] The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

[26] The amendment in the *Road Traffic Amendment Act 2006* s. 15(a) to amend the Table to s. 64(2) is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment Act (No. 2) 2007* s. 6.

[27] The amendment in the *Road Traffic Amendment Act 2006* s. 22(9) to amend s. 76 is not included because the subsection it sought to amend had been amended by the *Road Traffic Amendment (Vehicle Licensing) Act 2001* s. 23.

[28] The *Road Traffic Amendment Act 2006* s. 35(2) and Pt. 3 read as follows:

> **35. Sections 111AA and 111AB inserted and saving**
>
> (2) A declaration under section 103A of the *Road Traffic Act 1974* or regulation under section 103B of that Act made before the commencement of this section is to have effect after the commencement of this section as if it was made under section 111AA or 111AB, as the case requires, of that Act.

Part 3 — Transitional provision

> **36. Existing demerit points**
>
> Points currently recorded in respect of a person under section 103 of the *Road Traffic Act 1974* immediately before that section is repealed by section 29, and details of any offence in respect of which the points were recorded, are to be recorded as demerit

points against the person in the demerit points register referred to in Part VIA of the *Road Traffic Act 1974* as inserted by section 31.

29 The *Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010* s. 12(2)(c), (5)(d) and (7)(b) had not come into operation when they were deleted by the *Statutes (Repeals and Minor Amendments) Act 2014* s. 36.

30 The *Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015* s. 9 had not come into operation when it was deleted by the *Road Traffic Amendment (Blood Alcohol Content) Act 2019* s. 7.

31 The *Road Traffic Amendment (Impounding and Confiscation of Vehicles) Act 2016* s. 5 and Pt. 3 Div. 3 will not come into operation (see. s. 57(1)).

32 The *Taxi Drivers Licensing Act 2014* Pt. 10 Div. 1 could not come into operation because the sections it sought to amend were deleted by the *Road Traffic Legislation Amendment Act 2012* s. 8. Subsequently, the *Taxi Drivers Licensing Act 2014* was repealed by the *Transport (Road Passenger Services) Act 2018* s. 304 before it purported to come into operation.

33 The *Road Traffic Legislation Amendment Act 2016* s. 64 had not come into operation when it was deleted by the *Road Traffic Amendment (Blood Alcohol Content) Act 2019* s. 9.

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